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Letter dated 7 July 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) addressed to the President of the Security Council

In accordance with paragraph 13 of Security Council resolution 1455 (2003), I have the honour to transmit herewith the report of the Monitoring Group established pursuant to Security Council resolution 1363 (2001). I should be grateful if it could be brought to the attention of the Council members and issued as a Security Council document.

(*Signed*) Heraldo **Muñoz**
Chairman
Security Council Committee established
pursuant to resolution 1267 (1999)

03-39855 (E) 110703

Annex

Letter dated 16 June 2003 from the Chairman of the Monitoring Group established pursuant to resolution 1363 (2001) and extended by resolutions 1390 (2002) and 1455 (2003) addressed to the Acting Chairman of the Security Council Committee established pursuant to resolution 1267 (1999)

On behalf of the members of the Monitoring Group established pursuant to Security Council resolution 1363 (2001) and assigned pursuant to resolutions 1390 (2002) and 1455 (2003), to monitor the measures States shall take under those resolutions, I have the honour to attach the first report submitted in accordance with paragraph 13 of resolution 1455 (2003) (see enclosure).

(*Signed*) Michael **Chandler**
Chairman
Monitoring Group established pursuant to 1363 (2001)

(*Signed*) Hasan **Abaza**
Expert member

(*Signed*) Victor **Comras**
Expert member

(*Signed*) Philippe **Graver**
Expert member

(*Signed*) Surendra **Shah**
Expert member

Enclosure

Report of the Monitoring Group established pursuant to Security Council resolution 1363 (2001) and extended by resolutions 1390 (2002) and 1455 (2003)

Summary

The Security Council, on 17 January 2003, acting under Chapter 7 of the Charter of the United Nations, adopted resolution 1455 (2003) to improve the implementation of measures imposed under Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002) against Osama bin Laden, al-Qa`idah, the Taliban, their associates and associated entities. These measures include a freeze of financial and economic assets, a travel ban and an arms embargo. They are to be applied by all countries against the individuals and entities designated by the Security Council Committee established pursuant to resolution 1267 (1999) (the Committee). A consolidated list (the list) of the designated individuals and entities is maintained by the Committee and provided to all States.

A group of experts was reappointed in accordance with paragraph 8 of resolution 1455 (2003) and requested to monitor the implementation of the measures and to follow up on relevant leads relating to any incomplete implementation. This is the first of two periodic reports the Group was requested to submit to the Committee concerning its monitoring activities, findings and recommendations. It covers the period 18 January 2003 to 31 May 2003. The present report also includes an assessment of reports submitted to the Committee by countries concerning the implementation of the measures called for in paragraph 6 of resolution 1455 (2003). Some 50 such reports have been submitted to the Committee so far.

During the period covered by the present report there were marked successes in the fight against the al-Qa`idah network and in the efforts to find and detain key al-Qa`idah leaders. The arrest of members of Osama bin Laden's original "command team", including Khalid Sheikh Mohammed, Yasir al-Jaziri, Waleed bin Attash and other senior lieutenants, significantly dented its operational capability and provided critical intelligence concerning the network. This has led to the break-up of cells in a number of countries and the detention of substantial numbers of the network's supporters and operatives. But, as the recent bombings in Saudi Arabia, Chechnya, Morocco and Afghanistan have demonstrated, al-Qa`idah and groups associated with it still pose a significant threat to international peace and security. They retain strong appeal among Islamic extremist elements around the world and are able to draw on a substantial number of *cadres* trained in Afghanistan or at training centres elsewhere associated with the al-Qa`idah network. There are also indications that the al-Qa`idah network has been able to reconstitute its levels of support.

The international community has also put in place new cooperative means and measures to deal with the al-Qa`idah financial support network. Numerous countries have adopted new laws, regulations and procedures enabling them to better identify and deter terrorism financing, and to take action against those responsible. This has involved expanded use of "know your customer" requirements and "suspicious transactions reports". But, the fight against terrorist financing is far from over. Al-Qa`idah is still able to exploit loopholes and has developed new techniques to

acquire, utilize and distribute funds and logistical resources. Substantial funds are still available from the illicit drug trade, through charities and from deep pocket donors for indoctrination, recruitment, and training.

This situation continues to pose significant risks, worldwide, as was demonstrated in the recent wave of terrorist attacks in Chechnya, Morocco and Saudi Arabia. Progress against al-Qa`idah in these areas will require increased political and economic pressure and the provision of substantial additional technical assistance and financial aid.

Charities and the use of informal transfer mechanisms such as *hawala*, continue to pose important challenges in the war on terrorist financing. Some steps have been taken in this regard, but a greater effort is still necessary to identify and designate al-Qa`idah's contributors and those handling their assets. This effort must be expanded in those areas where little is being done now to ferret out and punish such activities. In fact, no such assets have been found in a number of countries where al-Qa`idah associates are known to operate.

Further success in bringing down the al-Qa`idah financial networks will require a sustained international effort, along with increased international cooperation, information sharing and coordination. Such a strategy is required to ensure that all countries willing to participate have the financial and technical means to do so.

The list only includes a small subset of known al-Qa`idah operatives and others associated with the al-Qa`idah network, including persons trained in terrorism techniques. This has seriously reduced the overall effectiveness of the measures contained in resolutions 1390 (2002) and 1455 (2003).

The principal value of the travel ban, as it now stands, is to serve as a "political statement", intended to make it clear to countries that they should not permit members of the Taliban, al-Qa`idah or associated groups to gather, seek refuge in or transit their territories. As a practical matter, few, if any, of the designated al-Qa`idah members are likely to seek open entry or transit using their own name and legitimate documents. No instances have been reported to the Committee by countries of designated individuals being stopped or turned back. There have been some reports, however, of countries locating, detaining and extraditing persons suspected of supporting or participating in al-Qa`idah terrorist actions. None of these individuals appear to have been proposed to the Committee for designation on the list.

Despite the travel ban, members of the al-Qa`idah network have retained a high degree of mobility and have been able to carry out and contribute to terrorist attacks in several countries around the world. Ostensibly unlisted al-Qa`idah members remain free to move from country to country.

To date, no attempts by the individuals or entities designated on the list to breach or circumvent the arms embargo measures imposed collectively by resolutions 1390 (2002) and 1455 (2003) have been discovered or reported by any States to the Committee or the Group. Nonetheless, as recent terrorist attacks referred to in the present report demonstrate, al-Qa`idah, the Taliban and groups associated with them are still able to acquire adequate quantities of weapons and explosives where and when they need them. This situation is reinforced by reports over recent months of a marked increase in the number and the intensity of attacks against coalition forces in Afghanistan.

The requirement for, and the continued use of, small arms and light support weapons are not confined to the ongoing situation in Afghanistan. The activities of groups associated with al-Qa'idah in Algeria, in Chechnya, in Mombasa, Kenya and in the Philippines, and the recent attacks in Riyadh clearly demonstrate that the network is able to acquire all the arms and ammunition it needs for its operations. This fact emphasizes the need for greater efforts on the part of all States to interdict the movement of illegal weapons to the al-Qa'idah network, particularly those States bordering the above-mentioned areas.

To date, 51 countries have submitted reports to the Committee. The Group has been able to draw general conclusions concerning the implementation by these States of the measures.

The majority of responses submitted were prepared in accordance with the guidance provided by the Committee. This has simplified the work of the Group by allowing its members to focus on segments of the reports related to their specific areas of expertise. The reports demonstrate a wide degree of compliance in adopting and applying the measures imposed under resolution 1455 (2003) and previous related resolutions. However, almost half of the reporting States indicated that they had encountered problems with regard to incorporating the list within their own regulatory framework. This was due, in large measure, to the absence of required minimum identification data associated with the names.

I. Introduction

1. On 17 January 2003 the Security Council, acting under Chapter VII of the Charter of the United Nations, adopted resolution 1455 (2003), in which it decided to improve the implementation of the measures imposed under Security Council resolutions 1267 (1999), 1333 (2000) and 1390 (2002) that States shall take against Osama bin Laden, al-Qa'idah, the Taliban, their associates and associated entities.

2. In paragraph 8 of resolution 1455 (2003), the Security Council requested that the Secretary-General reappoint five experts, drawing on the expertise of the members of the Monitoring Group (the Group) established pursuant to paragraph 4 of resolution 1363 (2001), to monitor the implementation of the measures referred to in resolution 1455 (2003) and to follow up on relevant leads relating to any incomplete implementation of the sanctions regime.

3. The Group was requested to submit two written reports concerning its monitoring activities, findings and recommendations to the Security Council Sanctions Committee established pursuant to resolution 1267 (1999) (the Committee). The first of these reports, due by 15 June 2003, is herewith presented. It outlines the work of the Group during the period from 18 January 2003 to 31 May 2003 and provides an overview and assessment of the actions taken by countries to comply with the resolutions cited above. It also provides a series of recommendations that the Group considers merit the attention and action of the Committee and Member States, in order to address the objectives laid out in the resolutions and to further improve and strengthen the implementation of the stipulated measures.

4. The Security Council also requested the Group to submit a detailed work programme within 30 days of the adoption of resolution 1455 (2003) and to assist the Committee in providing guidance on the format of the reports States were called upon to submit to it no later than 90 days from the adoption of the resolution.[1] The results of these two tasks were submitted to the Committee on 17 February 2003.

5. During the period covered by the present report the Group focused also on analysing the "90-day reports" submitted by States as called for in resolution 1455 (2003). By 13 June 2003, 51 reports have been submitted to the Committee. (A table enumerating the reports submitted by States is provided in Appendix I.) This number falls well short of the expectations expressed in resolution 1455 (2003) and all countries that have not yet submitted their reports should be encouraged by the Committee to do so as soon as possible.

6. These reports are a useful tool for understanding the progress made and the problems encountered in addressing the threats posed by al-Qa'idah, the Taliban and associated individuals and entities. The importance of all States' fulfilling this requirement was further emphasized in a declaration adopted by the Security Council at its ministerial-level meeting on 20 January 2003 (resolution 1456 (2003), annex), specifically paragraph 2 (c) of the declaration.

7. Analysis of States' reports is provided, where relevant, in the respective sections of the present report and is consolidated in an overview in section VII. The information contained in some of the reports is proving to be extremely valuable. States have highlighted problems they face in implementing resolutions 1390 (2002)

and 1455 (2003), but have also provided a number of ideas which, if adopted by other States, could prove useful in the overall fight against the al-Qa`idah network.

8. The number of reports submitted so far provides a less than complete picture of the global situation concerning implementation of the measures. Nonetheless, the Group, here in its first report, seeks to provide a more complete assessment of the current situation. It has drawn on its own activities, expertise and sources of information. The Group travelled to a number of countries, for meetings with government officials and other experts with respect to the discharging of its mandate. (A list of the countries visited is contained in Appendix II).

9. The period covered by the present report was marked by progress in combating the al-Qa`idah network and in the efforts to find and detain key al-Qa`idah leaders and to curtail their activities, financing and logistical support. Despite these efforts, al-Qa`idah and entities and individuals associated with it continue to pose a significant threat to international peace and security.

10. This period was also marked by the war in Iraq and further military actions in Afghanistan. Despite these factors initially delaying visits by members of the Group to Afghanistan and the Russian Federation, the Group was able to reschedule those visits within the reporting period.

II. "Third generation" al-Qa`idah

11. In the three reports it submitted during 2002,[2] the Group sought to present a current image of the threat posed to international peace and security by al-Qa`idah and its associated groups and individuals, as the terrorist network has adjusted to the various measures of the international community to disrupt it and to counter its abhorrent and senseless form of terrorism. This assessment is important in providing a background against which the Group can view the measures being implemented by States.

12. Since the Group's last report[3] there have been some important arrests, giving rise to an impression in some quarters that the war against al-Qa`idah is being won. Certainly the arrests of key members of Osama bin Laden's original "command team", particularly Khalid Sheikh Mohammed, Abu Zubayida, Yasir al-Jaziri and Waleed bin Attash and other senior lieutenants, have significantly dented the operational capability of al-Qa`idah and provided some useful intelligence concerning the network. This has led to the break-up of cells in a number of countries and the detention of substantial numbers of supporters and operatives belonging to the network. But, as the recent bombings in Afghanistan, Chechnya, Morocco and Saudi Arabia have demonstrated, Islamic extremist elements are still willing and able to strike at targets of their choosing, with devastating political and economic effect and appalling loss of life and injuries.

13. The attacks in Morocco (Casablanca) and Saudi Arabia (Riyadh) bear the hallmarks of al-Qa`idah. They were well planned, involved simultaneous multiple strikes and the attackers were prepared to commit suicide to carry them out. Some of the attackers in Riyadh are believed to have been trained in Afghanistan. In the case of the Casablanca attacks, apparently, none of the bombers had been to Afghanistan. Most of them came from the same suburb in Casablanca and were allegedly trained and prepared for their attack by one or more al-Qa`idah "visiting experts". But the

fact that, in less than a week, the al-Qa'idah network sacrificed 22 of its followers clearly indicates that sympathy for this particular ideology is not diminishing. On the contrary, it appears, just as has been demonstrated all too often in Israel, that an attack by one suicide bomber encourages even more young people to want to emulate this appalling and indiscriminate form of suicide, mistakenly called "martyrdom".

14. The fact that the suicide bombers are willing to kill innocent persons and members of the Muslim community gives rise to the probability that they are acting on the basis of instructions issued by some "higher authority". If this is the case, then the attacks were not the result of a decision taken locally by the attackers themselves, operating autonomously. Alternatively, it may be that the ideology has assumed such an importance in their thinking process, that they no longer care who dies in the process of their waging their jihad.

15. The attacks against housing complexes in Riyadh suggests that al-Qa'idah may be willing to expand its activities beyond "soft targets" to underscore its continuing strength. This "new boldness" may portend a change in al-Qa'idah tactics and a willingness to seek targets that will have a greater international impact.

16. In the case of these attacks in Riyadh, another change has been observed in the tactics used. Since the April 2002 attack on the historic synagogue on the Tunisian island of Djerba, almost all the al-Qa'idah-related strikes,[4] involving the use of a vehicle or a small boat packed with explosives, have been against "soft targets" where there was little or scant security. In the Riyadh strikes, however, the attackers came prepared with small arms and fought their way into protected areas, to ensure that their improvised explosive devices achieved maximum damage and loss of life and were not detonated ineffectually outside the targeted compounds.

17. Initial reports have indicated that some, if not all, of the Riyadh attackers had been trained in Afghanistan and had made their way back to Saudi Arabia following the fall of the Taliban regime. It should be of great concern to the Committee that so many al-Qa'idah members had been able to travel across several countries, sometimes without being detected or subjected to the travel ban prescribed in resolutions 1390 (2002) and 1455 (2003). The circumstances are not specific to Saudi Arabia. Individuals, known to have been trained by al-Qa'idah or to have attended al-Qa'idah run or associated training camps, are still free to roam at will.

18. The Group continues to believe that, as stated in its previous reports, all persons who have been trained by al-Qa'idah for terrorism-related purposes should be identified to the Committee and should be presumed to be al-Qa'idah associates for the purposes of the United Nations consolidated list. The Group considers this an important adjunct to disrupting further the ability of the network to operate and of its members to move freely between countries.

19. It is also clear that young Muslims, from many countries, who have been subjected to teachings of an extreme form of Islam continue to be recruited into the ranks of suicide bombers, intent on attacking not only citizens of the United States and its allies, but also fellow Muslims. The image that is emerging of the network is of a new generation of Islamic fundamental extremism, such that al-Qa'idah can be viewed as both an organization and an ideology: a "third generation al-Qa'idah", which is becoming self-perpetuating. This makes it all the more difficult to track and

disrupt elements of the newly emerging network and reinforces the need for all States with known al-Qa`idah elements to clamp down hard on their activities.

III. The United Nations consolidated list

20. The United Nations consolidated list (the list) is the essential tool established by the Security Council to define the individuals and entities that are subject to the measures imposed in resolutions 1267 (1999), 1333 (2000), 1390 (2002) and 1455 (2003). It is of critical importance, therefore, that this list be maintained up-to-date, accurate and complete, and that it constitute a useful instrument for States in the implementation of the measures imposed against al-Qa`idah, the Taliban and all the other elements that compose and support the network.

21. Several countries have, in their reports to the Committee, indicated that they have encountered problems with regard to the list. A number of these submissions stressed the need for better identification of data and corroboration of information contained in the list.

22. The Group has highlighted in previous reports the problems associated with the lack of minimum identifiers in the list, as expressed by a number of government officials during discussions with the Group and also stated in a number of reports submitted pursuant to paragraph 6 of Security Council resolution 1390 (2002). In this connection, the Group has put forward recommendations with the aim of enabling States to use the list more easily and effectively. They included recommendations concerning the need for additional identifiers, for greater attention to the cultural construction of names and for alteration in the position of titles in the names in the Taliban segment of the list, among others.[5]

23. As with any list, the more the number of additional identifiers, the greater the likelihood that successful actions can be carried out. Transliteration of characters from one alphabet to another, variations in the structure of names due to cultural origins and different spellings of names have been highlighted as significant problems by language experts and name-searching software designers.[6]

24. The Group assisted the Committee and the Secretariat in correcting some of the shortcomings of the list, by establishing guidelines to improve the overall quality of the information contained therein. These guidelines covered the updating of existing information on designated names of individuals and the correct cultural construction and formatting of the names on the list. The Group also developed criteria to be used in reviewing list-related information. They were included as an annex to the Committee's guidelines, for the consideration of additional information relating to designated individuals and entities, submitted by States and/or regional organizations. The guidelines have been communicated to States and recent additions of names to the list have been completed accordingly.[7]

25. As part of its continuous efforts to improve the information contained in the list, members of the Group visited Afghanistan and met with relevant officials of the interim Government to discuss issues relating to information currently included in the list, particularly its Taliban section, which contains the names of 152 individuals and one entity. As a result of the visit, the Transitional Islamic State of Afghanistan has agreed to provide information to the Committee, which, when incorporated, will improve the quality of the Taliban section of the list.

26. The Group will continue to advise the Secretariat on ways to improve the Taliban portion of the list, particularly with respect to the names of those individuals who were outside the country during the Taliban regime. This will be achieved through consultations with officials from the Transitional Islamic State of Afghanistan, Pakistan, Saudi Arabia and the United Arab Emirates.

27. The Group will also continue to work with the Secretariat to improve the al-Qa`idah section of the list. It plans to renew contacts with country officials presumed to be linked to designated individuals by virtue of residence and/or citizenship, to seek additional information that could help to update the list.

28. The Group remains concerned that only a small number of individuals and entities known to be associated with the al-Qa`idah network have been added to the list. Unfortunately, most of these names were added only after the individuals or entities concerned had engaged in terrorist attacks or supporting activities. The Group again reiterates its previous recommendation that Member States become more proactive in proposing the names of persons known to have been recruited and trained for these purposes, and entities known to be associated with the network.

IV. Freezing of financial and economic assets

29. The Group has noted considerable progress since the "9/11" terrorist attacks and during the reporting period in identifying and disrupting the financing of terrorism. The international community has put in place new cooperative means and measures to deal with this matter. Numerous countries have adopted new laws, regulations and procedures enabling them better to identify and deter the financing of terrorism, and to take action against those responsible. As previously reported, some 149 countries have issued freezing orders and more than $125 million in terrorist-related financial assets have been frozen. Most of these assets were frozen shortly after the "9/11" attacks. But there has been increasing success, since then, in tracking down and arresting many of the top al-Qa`idah leaders, such as Mustafa Ahmed al-Hawsawi, Abdul Rahim al-Sharqawi and Khalid Sheikh Mohammed, involved in raising and distributing money for the organization.

30. Progress has also been made in tracking down, inhibiting and incarcerating key financial intermediaries and facilitators that provide support for the al-Qa`idah network. According to recent testimony provided by government officials to the United States Congress, funding of al-Qa`idah has been reduced significantly because more and more potential donors are now concerned about being identified as having links to al-Qa`idah.[8] These successes are attributable, to a great extent, to increased attention and vigilance on the part of national authorities and banking and other financial institutions, and to enhanced intelligence and information sharing. These combined international efforts have made it much harder for the network to draw funds from sympathetic donors and to raise and move money.

31. Despite these successes, the efforts to curb financing of the al-Qa`idah network are far from over. Many of the al-Qa`idah sources of funding have yet to be uncovered and frozen. Its base of sympathizers may even have grown. The network has also adapted to the tighter international financial environment. It has continued to exploit loopholes or to develop new techniques to acquire, utilize and distribute funds and logistical resources. It has become adept at masking transactions or utilizing informal transfer mechanisms, such as *hawala*. Substantial funds are still

available from and through charities and deep-pocket donors for indoctrination, recruitment and training.

32. The international drug trade, which is estimated to have produced in excess of $6 billion (over $1.2 billion involving Afghanistan) in 2002, also remains an important source of unregulated funding upon which terrorist groups, such as al-Qa`idah, can draw. Local cells also continue to operate autonomously, raising funds through local businesses, charities and petty crime. This has involved such activities as drug and cigarette smuggling, credit card fraud and coupon fraud.

33. The Group believes that al-Qa`idah still possesses, and has access to, sufficient sums of money to allow it to continue to indoctrinate, recruit, train and deploy, and to carry out extensive and simultaneous terrorist attacks.

34. Resolutions 1390 (2002) and 1455 (2003) direct that countries freeze without delay the funds and other financial assets or economic resources of designated individuals, groups, undertakings and entities, including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, and ensure that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.

35. The reports submitted to the Committee pursuant to Security Council resolutions 1390 (2002) and 1455 (2003), and to the Counter-Terrorism Committee, pursuant to resolution 1373 (2001) indicate that most countries have taken steps to implement the Security Council's directives. Almost all countries now have in place legislation or regulations authorizing them to take such actions against persons or entities designated for such treatment by the Committee. In many countries, designation by the Committee is considered a sufficient basis in their domestic law upon which to undertake freezing actions. In some countries, however, further evidentiary requirements must be met before such freezing actions can be implemented. This can significantly delay implementation of the asset freezing measures called for in resolutions 1390 (2002) and 1455 (2003). There are also a large number of countries that have not yet signed or ratified the International Convention on the Suppression of the Financing of Terrorism, or acted to criminalize terrorist financing.

36. According to information provided in the reports referred to above, and to statistics published by the United States Treasury, some 151 countries or jurisdictions have issued blocking orders related to al-Qa`idah. As many as 40 countries or jurisdictions have still not issued blocking orders obliging their banking and other financial institutions to ascertain the possible presence of assets belonging to designated persons or entities, or to freeze such assets. Some 30[9] of these 151 countries have located and frozen funds belonging to designated persons or entities.

37. The estimated value of these frozen assets (mostly in the form of bank accounts) has been put at around $125 million. However, only about $59.2 million of this amount is attributable to al-Qa`idah or those directly associated with it. About $39 million of the frozen accounts belonged to the Taliban. Of this latter amount, some $27.7 million has been returned to the Transitional Islamic State of Afghanistan. These figures have changed little over the past year. About 70 per cent of the funds frozen are located in Europe, Eurasia and North America. South Asia accounted for about 8 per cent and the Near East 21 per cent (mostly in Saudi

Arabia and the United Arab Emirates). The East Asia/Pacific region and Africa accounted for less than 1 per cent. In the statistics provided, several countries do not distinguish between frozen assets related to al-Qa'idah and those related to other terrorist organizations.

38. It appears from the reports submitted by States and available statistical information that few assets other than bank accounts have been frozen. There is little indication from the reports or other available information that any great effort has been engaged in locating and freezing other types of assets. Nonetheless, most countries have indicated the existence of authority to freeze other financial assets and economic resources, whether tangible or intangible, moveable or immovable. In this regard, following an application by the Government of Switzerland to the Committee under resolution 1452 (2002), the Group has become aware that Mr. Youssef Nada, an individual who was designated by the Committee in 2001 for helping to finance al-Qa'idah activities, continues to own and/or control financial assets and other economic resources, including investment funds and real estate, in Liechtenstein and in Campione d'Italia, Switzerland. The Group is aware that the Swiss authorities are looking into the situation. However, the Group considers that such assets should be frozen without delay.

39. Several countries have underscored the difficulties they have experienced in tracking down bank accounts and other financial and economic assets relating to designated individuals and entities. Much of this difficulty stems from inadequate identifying information, from masked, beneficial or third party holdings, and from the lag time between designation, the distribution of amendments to the list, the issuance of freezing orders and formal notification to financial institutions. Spelling variations stemming from multiple transliterations of names on the list are particularly problematical. Such spelling variations can make it impossible to locate an account rapidly or to detect a transaction.

40. Only a small number of the accounts that have been located and frozen contain substantial funds. In most cases these accounts relate to donors, fund-raisers, facilitators and intermediaries that have supported al-Qa'idah activities, rather than to al-Qa'idah and Taliban "foot soldiers". In fact, funds and transactions attributable to individuals deemed to be core members of al-Qa'idah now on the list constitute less than 1 per cent of the funds frozen.

41. Several States have undertaken to inform other interested countries bilaterally before announcing designation actions at the national or Committee level. However, this practice is not yet widespread. The G-20 countries have agreed to share such information at least 72 hours in advance. Special expert-level points of contact are to be established in G-20 countries for this purpose. The Group believes this practice should be expanded.

42. Financial regulators and banking officials have expressed serious reservations to members of the Group concerning any further expansion of the list to include regular al-Qa'idah rank and file members, or those trained by al-Qa'idah in Afghanistan or other training centres. They maintain that such an expansion of the list would severely complicate international banks' monitoring operations and weaken, rather than strengthen, their ability to disrupt al-Qa'idah financing. They argue that it would entail a significantly greater effort to monitor accounts and transactions, and that this could disrupt the handling of a large number of legitimate transactions involving persons with similar names. Concern has also been expressed

that such action might run afoul of national laws and regulations and could lead to significant humanitarian hardships.

43. It is recognized, however, that the listing of persons associated with or trained by al-Qa`idah may be necessary in order better to identify such persons and reduce their mobility and the threat they pose. This suggests that some means should be considered to distinguish between persons of substantial interest, such as the al-Qa`idah leadership, and those that provide them financial and material support, and the many "foot soldiers".

44. As noted above, the emphasis in the fight against terrorist financing in general and al-Qa`idah funding in particular has shifted from finding and freezing accounts to going after the individuals who raise, contribute, transfer and distribute the funds that support al-Qa`idah and its associated entities and activities. Considerable attention has been given by both banking and government officials to determining an appropriate methodology for identifying and inhibiting such illegal activities. Work is being carried out in Europe by such groups as the Wolfsberg Group of banks and in the United States by the Intercept Forum, a team of 34 public and private sector organizations, to develop and implement appropriate strategies. They are developing and sharing with other financial institutions useful patterns of terrorist funding behaviour, gathering information on identified terrorist groups and developing policies, procedures and software to identify and monitor transactions and account opening activity. They have also agreed to work towards greater international cooperation.

45. The strategies developed by the banks referred to above rely heavily on the assiduous use of suspicious transaction reports, effective assessment by financial intelligence units and increased international cooperation and information sharing. Such practices have become a regular part of the European and American financial landscape. Their use has also expanded to certain major banking centres in the Middle East and South-East Asia. Some weaknesses remain, particularly with regard to non-bank financial institutions, alternative remittance systems and charity oversight. The strategy has had considerable success in disrupting al-Qa`idah activities, although at the same time it has forced the network to seek areas where such regulatory systems do not exist, or remain largely unimplemented. It is likely to prove much more difficult to replicate this success in countering terrorist financing in other areas of the world.

46. While actions taken pursuant to Security Council resolutions 1390 (2002) and 1455 (2003) have had a major impact on al-Qa`idah financing and operations in Europe, North America and other major banking centres in Asia and the Middle East, there has only been limited success outside these areas. It has been argued that al-Qa`idah may have moved some of its financial assets to areas where the resources to regulate such activities are lacking. This situation continues to pose significant risks worldwide. Progress against al-Qa`idah will require increased political and economic pressure and the provision of substantial technical assistance and financial aid. The G-8 countries recently agreed to look closely at expanding such assistance. The Group considers that such assistance is necessary if there is to be further success in disrupting the financial mechanisms that support al-Qa`idah.

47. In its second report to the Committee,[10] the Group reviewed estimates that put the value of the al-Qa`idah portfolio outside of European and American banks at between $30 and $300 million, and indicated that al-Qa`idah was receiving an

estimated $16 million per year in donations. Al-Qa'idah was also believed to have sequestered some of the assets associated with the deposed Taliban regime. These assets were believed to have been exchanged into hard currency, gold and other precious commodities, and smuggled to various countries in Africa, Asia and the Middle East. There were also indications that al-Qa'idah continued to profit from revenues associated with the Afghanistan illicit drug trade. At the same time, individual cells were viewed as being able to sustain themselves through local businesses and petty crime.

48. Some authorities maintain that these estimates were too high and that al-Qa'idah always had much smaller financial requirements. Nevertheless, there has been little indication that many of these assets have been located and frozen. In fact, most of the funds that have been frozen so far are attributable to contributions to al-Qa'idah supporters, or facilitators, rather than to the network's own direct assets.

49. The freezing of assets belonging to al-Qa'idah contributors and supporters is among the most important weapons in the fight against the network. Such action provides a critical deterrent to groups and individuals who might consider contributing to al-Qa'idah and its associate groups. The Group believes that it is important that greater effort be made to identify and designate such contributors and to freezing their assets. This effort must be expanded in areas where little is being done to prevent and punish such activities.

50. While several countries in Africa, the Middle East, and South and South-East Asia have also taken important steps to deal with al-Qa'idah and its financial networks, the situation in many countries remains vulnerable. The United Arab Emirates put in place extensive regulations last year to assure full compliance with "know your customer" and due diligence requirements. They also began to crack down on unregistered *hawala* operations. Bahrain, Kuwait and Saudi Arabia have also moved to tighten banking procedures to monitor better measures taken against financing terrorism and money laundering.

51. In May 2002, Saudi Arabia issued new rules and operating guidelines to its banks incorporating "best practices" regarding "know your customer" and "due diligence" requirements. The Government also acted to put in place new regulations to monitor and control better the collection of *zakat* and other charitable contributions.[11] The Group was told in April 2003 that the Government of Saudi Arabia had decided to suspend all authorizations which would allow Saudi-based charities to transfer funds overseas. Donations would only be distributed to organizations approved by the Governments of the countries where they were based. Such funds would be channelled through transparent mechanisms allowing for close monitoring and controls. These restrictions are to remain in place until new measures are adopted to monitor better the overseas activities of Saudi charities.

52. On 15 May 2003 it was announced that the Al Haramain Islamic Foundation would close its offices in Albania, Croatia, Ethiopia, Indonesia, Kenya, Pakistan and the United Republic of Tanzania. Its offices in Bosnia and Herzegovina and Somalia, which had been implicated in al-Qa'idah financing activities, had been closed earlier. The Group welcomes this measure.

53. The Bali bombings on 12 October 2002 focused new attention on the activities of al-Qa'idah, and its associates in South-East Asia. The investigation following the attack uncovered a complex network of Islamic extremist organizations, charities,

front companies and individuals engaged in financing, harbouring and supporting al-Qa`idah activities. Terrorism expert Rohan Gunaratna[12] estimated that by that time nearly a fifth of the al-Qa`idah organizational strength was centred in the South-East Asian region. These groups assisted one another in recruiting, training, raising funds and executing missions.

54. In November 2002, the Committee designated several individuals and entities in the region as being members of, or associated with, al-Qa`idah, inter alia, the Jemaah Islamiyah organization and alleged members of that organization, Riduan bin Isamuddin, also known as Hambali, and Mohamad Iqbal Abdurrahman, also known as Fihiruddin. They had been implicated in the Bali bombing. There is little information, however, on the steps that have been taken to locate and freeze their assets, along with those of the other individuals and entities associated with al-Qa`idah that are operating in the region. None of the countries in the region have yet reported locating any assets associated with these groups.

55. The Financial Action Task Force (FATF) has noted that several countries in the region continue to lack adequate means to control money laundering and terrorist financing. Unregulated alternative remittance systems further complicate the issue. FATF has placed some countries on its list of non-cooperative countries and territories, citing major deficiencies, including excessive bank secrecy provisions and the lack of a basic set of anti-money laundering regulations, including customer identification and record keeping requirements.[13]

56. The countries of South-East Asia agreed at the Asia Pacific Economic Council conference, held in Mexico in October 2002, to redouble their efforts to deal with the terrorist threat and terrorism financing. In their final communiqué they agreed to:

- Fully implement key United Nations and other international instruments in order to promote joint identification of regional terrorist targets;
- Promote better monitoring of alternative remittance systems and charities to prevent terrorist misuse;
- Ensure that members without financial intelligence units take action to establish them; and
- Encourage all members to take steps to increase information sharing between financial intelligence units.

57. These same commitments were reiterated at the Association of South-East Asian Nations summit meeting in November 2002.

58. There are suspicions that al-Qa`idah and the Taliban continue to obtain funds in Afghanistan and other neighbouring countries. Afghanistan still accounts for much of the world's illegal opium and heroin production and trade. The trade is supported by a *hawala* system that enables funds to be channelled in the region. Some of these funds may be used to support Taliban and al-Qa`idah related activities. Illegal drug smuggling proceeds are also believed to help fund al-Qa`idah related activities in Chechnya, Georgia and other areas of Central Asia.

59. Al-Qa`idah has long viewed some parts of Africa as potential areas for recruitment and operations. Osama bin Laden spent considerable time in the Sudan and had links with sympathizers and supporters in other African countries. The

Group noted in its previous reports that substantial al-Qa`idah related assets were still believed to remain uncovered in several African countries. There have been several, still unconfirmed, reports of al-Qa`idah transferring gold and other assets from Afghanistan to hidden depositories in Africa, and that al-Qa`idah operatives have engaged in the smuggling and trade of conflict diamonds. There are substantial reasons to believe that other parts of Africa remain an area to be targeted by al-Qa`idah for its operations from cells believed to be established in parts of East Africa, sub-Saharan Africa, Somalia and the Sudan.

60. The banking and money transfer systems in some African countries remain vulnerable to al-Qa`idah exploitation. Africa has already become a target area for the laundering of dirty money associated with various criminal groups. Several African countries, including Cameroon, Chad, the Central African Republic, the Congo, Equatorial Guinea and Gabon, have agreed to act in common to combat money laundering and terrorism financing. In October 2002, experts from the Central Bank of Central African States (BEAC) adopted new measures to tighten monitoring controls over, and within, participating banks. Botswana, Kenya, Lesotho, Madagascar, Malawi, Mozambique, Namibia, South Africa, Swaziland, Uganda, the United Republic of Tanzania and Zimbabwe have also established common links and procedures to combat money laundering and the financing of terrorism. The Economic Community of West African States (ECOWAS) has also adopted new measures within the context of its Intergovernmental Action Group against Money Laundering. The World Bank and other international organizations have pledged support for these activities.

61. Perhaps the greatest weaknesses in the fight against the financing of terrorism stem from the continued vulnerabilities posed by charities and the widespread use of alternative remittance systems. A number of charities have been identified as participating in funding the al-Qa`idah network and have been shut down. But many experts believe that this is only "the tip of the iceberg". Moreover, the Group is concerned that even when a charitable organization is designated on the list, the persons responsible for its management and operations are often not listed, thereby significantly reducing the deterrent factor and leaving those concerned to form replacement organizations.

62. The roots of the al-Qa`idah financial network can be traced directly to the use of charitable organizations to support its anti-Soviet jihad activities in Afghanistan. By the time al-Qa`idah had transformed itself into an international terrorist movement, the group had effectively infiltrated, and come to rely principally on, a series of Muslim charities, including the Benevolence International Foundation and the Bosnia and Herzegovina and Somalia based offices of the Al Haramain Islamic Foundation. The funds raised by these charities would be used for both legitimate relief purposes and for funding al-Qa`idah operations. This model has been used successfully with regard to a broad range of charities (large and small) throughout the world. Additional collection activities are aimed at mosques and Islamic teaching and cultural centres. On 4 March 2003, for example, the United States authorities unsealed charges against Sheik Mohammed Ali Hasan Al-Moayad, a Yemeni cleric tied to the al-Farouq mosque in Brooklyn, New York, alleging that he and his associates had raised millions of dollars for Osama Bin Laden and al-Qa`idah.

63. Some charities continue to provide funding for religious, cultural and political groups that sympathize with and provide material support to the al-Qa`idah network. A distinction must be drawn between charities that provide critically needed social, health and educational services, and those that seek to propagate radical teaching and an extremist ideology. It has become clear over the past decade that this latter form of "charitable activity" has given rise to an increasingly active programme of indoctrination, recruitment and training in support of al-Qa`idah and related terrorist groups.

64. Charity money, or donations, starts off as clean money and only becomes dirty in terms of its final recipients and downstream disbursement. The funds are usually provided to al-Qa`idah operatives in cash and the expenditure supported with false documentation indicating humanitarian purposes. The collection effort and the stated purpose of the funds often appear to be legitimate, providing few initial clues to those monitoring such activities. Often, the tainted use of the money is discovered after the fact. It may involve only a portion of the charity's activities and may take place through overseas branches in isolated areas. This can raise serious difficulties in determining the knowledge and intent of the persons soliciting and appropriating the funds.

65. Charities and the solicitation and collection of funds for charitable purposes remain unregulated in most of the world. For cultural, religious or other reasons there is still a strong desire in many countries to protect the identity of donors and a lack of oversight and accountability. This provides a permissive environment in which al-Qa`idah and associated groups are able to access funds and resources. Cracking down on these activities will require a sustained international effort and an increased willingness to share information. Cooperative intelligence and law enforcement work are vital in this effort. Stiff penalties must be imposed to deter such activities and States should act promptly to designate entities to undertake such work and individuals to manage them.

66. In a publication entitled *Combating the Abuse of Non-Profit Organizations, International Best Practices*, FATF[14] has called upon countries to tighten up on the oversight of charities and their distribution of funds. The recommended approach is to bring greater transparency to such activities and to assure that funds are channelled through traditional banking mechanisms, subject to monitoring and control. The United Kingdom has led in such efforts. The United Kingdom Charities Commission has hosted seminars in several regions of the world to alert national authorities to the vulnerabilities of charities and to provide practical suggestions on regulating and monitoring them.

67. The Group is concerned that, even after designation, several charities linked with al-Qa`idah have been permitted to continue to operate schools and other cultural institutions. Some of these charities have simply changed their names, but continue to operate as before. A recent example is the al-Rashid Trust in Pakistan. There are also allegations that Lajnat al-Dàawa al-Islamiya and Jaish-e-Mohammed may have kept some of their financial networks running by opening new bank accounts using third names.

68. The widespread use of *hawala* and other informal remittance systems also poses serious difficulties for the full implementation of the financial measures contained in Security Council resolutions 1390 (2002) and 1455 (2003). An estimated $80 billion moves yearly through such systems, supporting much of the

world's grey economy. Pakistani bankers investigating such activity last year estimated that *hawala* accounts for around US$ 3 billion entering their country every year, compared with only US$ 1 billion via the formal banking system. It is not surprising that groups such as al-Qa`idah would use such facilities for their own purposes.

69. The use of *hawala* can help mask al-Qa`idah transactions, and break the chain of records that might otherwise leave al-Qa`idah individuals and cells vulnerable to detection. Al-Qa`idah is believed to use *hawala*-like remittance systems to hide or handle many of its financial transactions. Many of these transactions are believed to originate, transit or end in centres such as Dubai, or in Yemen. The United Arab Emirates has begun to act to regulate *hawaladars* acting within the country. They are required to register and provide details of remitters and beneficiaries on special forms. These forms have to be submitted to the central bank at regular intervals. The *hawaladars* are also required to report suspicious transfers.

70. Despite an increased awareness of the operation and vulnerabilities of these alternative remittance systems, much still needs to be done to bring these systems under closer monitoring or control. Most of the work done so far has involved either studies, policy guidance or the issuance of new regulations. FATF and other international bodies have developed and published standards that should be used to regulate these activities and add to their transparency. This work is still continuing. Nevertheless, few additional resources have actually been put in play internationally to deal with the *hawala* issue.

71. Al-Qa`idah has learned to take advantage of the global economy and its vulnerabilities to operate, and to conduct and mask its financial transactions. Further success in bringing down the al-Qa`idah financial networks will require a sustained international effort, along with increased international cooperation, information sharing and coordination. Those countries that lack the resources to deal effectively on their own with these issues will require considerable financial and technical assistance for them to be successful. A new international strategy is required to ensure that all countries willing to participate have the financial and technical means to do so.

V. Travel ban

72. The travel ban imposed by Security Council resolutions 1390 (2002) and 1455 (2003) requires that countries prevent the entry into or the transit through their territories of designated individuals. Exceptions are made with regard to the entry of a country's own nationals, or when entry or transit is necessary for the fulfilment of a judicial process. The Committee can also make exceptions to the travel ban on a case-by-case basis.

73. The reports submitted by countries as required by resolutions 1390 (2002) and 1455 (2003) demonstrate a uniform awareness of the travel ban requirements. This was confirmed during visits by the members of the Group to a number of international airports and other border entry points in various countries. Nonetheless, several aspects of the implementation of the travel ban need improvement.

74. The great majority of States that submitted reports to the Committee indicated that they have managed to include in their "national stop list" the names of all persons designated in the list. The remaining reporting States indicated that they had only been able to include those names with "sufficient details or identifiers". These vary from country to country. The new format of the list has addressed some of these problems, but there are still several important basic identifying fields that are vacant. For example there are 34 designated individuals on the list that still have only a single name.

75. During the past year and an half, the Group had the opportunity to visit and observe, first hand, border entry points — airports, seaports and land border crossing points — in numerous countries. These visits have served to demonstrate many of the difficulties and limitations associated with the travel ban and the use of the list for this purpose, highlighting the seriousness of the problems encountered. If, for example, the names on the list are common names, incomplete or misspelled, it is very unlikely that the border control personnel will receive an alert concerning that person. Numerous officials told the Group that when there is just a single name, it is not possible to process that name. Unless proper identifying information, related to the categories of data processed at border entry points, is provided, there is little that can be done to apply the travel ban.

76. A common issue of concern is the proliferation of control lists that have to be accessible to border control authorities. They include national and regional "stop lists", the list and other names provided on a bilateral basis. This emphasizes the need to computerize such data in order for it to be readily accessible at border control points. However, this is not uniformly the case. Most of the countries responding to the Committee guidelines have indicated the availability of computer access at each border entry point. The Group notes that it is next to impossible for a border control officer behind a counter at any of the border entry points to scroll through all names in travel documents "manually". This situation is magnified at an international airport when the border service officers have a large number of passengers pressing to pass through the immigration processes.

77. The travel ban was designed to curtail the movement of al-Qa'idah members and other associates designated on the list. Such mobility is a basic operational requirement of the al-Qa'idah form of global terrorism. This measure was also meant to serve as a sanction against those who provide material support to al-Qa'idah. The Group does not believe that this measure has been effective in curtailing the movements of al-Qa'idah members and members of associated groups, including those persons whose names are on list. Further efforts should be considered in this regard. The Security Council may also wish to review and/or reformulate certain aspects of this measure.

78. As it now stands, the travel ban has little value beyond its "political statement", intended to make it clear to countries that they should not permit al-Qa'idah, Taliban or associated group members to gather, seek refugee in, or transit through their territories. Countries that knowingly disregard this provision are in violation of their international obligations.

79. Despite the travel ban, members of the al-Qa'idah network have retained a dangerously high degree of mobility and have been able to carry out and contribute to terrorist attacks in several countries around the world. Only a small subset of known al-Qa'idah members or persons trained in terrorist techniques by al-Qa'idah

and associated groups are now included on the list. Al-Qa`idah has also been able to sustain its mobility by using "identity theft" for the purposes of travel.

80. No instances have been reported to the Committee by countries of their stopping or turning back any designated individuals. However, there have been some reports of known al-Qa`idah members, not on the list, having been turned back, detained or arrested while in transit. In its report to the Committee, Belarus stated that "in 2001-2002 40 foreign nationals, suspected of belonging to terrorist and extremist organizations were barred from entering the country". Similarly, Pakistan reported, "some terrorists had been arrested while crossing the western borders".[15] It is not clear if any of these specific "terrorists" were connected with al-Qa`idah. Similarly, there have been some reports of countries locating, detaining and extraditing persons suspected of supporting or participating in al-Qa`idah terrorist actions. Regrettably, none of these individuals[16] appear to have been proposed to the Committee for designation on the list.

81. The use of false or forged travel documents is neither new nor unique to al-Qa`idah and other terrorist organizations.[17] It has assumed a very important role in al-Qa`idah procedures and has received some prominence in the al-Qa`idah training manuals. Several officials have indicated to the Group that many such documents have been found or seized in the process of arresting al-Qa`idah suspects. The Group believes that every effort should be made by States concerned to share information relating to the scope and nature of the falsification.

82. Border control authorities have long used the "face-to-face" methodology to confirm the identity of an individual with a document photograph. Therefore, in most cases of "identity theft" for the purpose of travel, the photographs in the travel document have been changed (which is generally referred to as "photo change") and in some cases other information may have been changed.

83. The International Civil Aviation Organization (ICAO) recently adopted a global identification framework to integrate biometric identification information into passports and other machine readable travel documents. The blueprint is intended to assist ICAO members to implement a standardized system of identity confirmation while having the option of using one or two secondary pieces of biometric information to supplement facial recognition for personal identification. To date, more than 100 members have issued some 700 million machine readable travel documents.[18] It is expected that the increased used of biometric-enhanced machine readable travel documents will greatly contribute to curbing and protecting against identity theft.

84. The Group also believes that greater access of border control authorities to airline and ship passenger name records would help strengthen their ability to protect their borders from illegal entry by al-Qa`idah members. Passenger name records are files created by airlines for each journey a passenger books. The information is stored in the airlines' control databases and allows for different agents within the industry to have access to all relevant data relating to the passenger's journey, including departure, return flight, connecting flights, etc.[19] The Group has observed that, at a number of international airports, systems are not in place for checking transit passengers. The Group considers that the passenger name record information would be a useful adjunct to, and would facilitate, the checking of passengers in transit.

85. The Group has noted the Advance Passenger Information (API) system, announced by the Canada Customs and Revenue Agency[20] and Asia-Pacific Economic Cooperation[21] provides more comprehensive information and useful data for the identification of persons.

86. The Group had already highlighted in its previous report the concern over exploitation of illegal immigration routes and syndicates by al-Qa'idah. These routes continue to be used by groups of unscrupulous organized criminals who trade in misery and exploitation of human beings. The routes are used to facilitate the illegal movement of economic migrants, asylum seekers, women trapped into prostitution and minors to be exploited by paedophiles, often at great personal expense to those being trafficked. The very nature of these illegal routes provides yet another avenue for the movement of would-be recruits to and other elements of the al-Qa'idah network.

87. The Group believes that the travel ban should be recast to reflect better its objective of identifying and inhibiting those persons suspected of operational or support ties with al-Qa'idah. It should include an as complete as possible catalogue of persons believed to be members of al-Qa'idah cells or to have participated in training in Afghanistan or elsewhere in camps associated with the network. It should also include all known members of al-Qa'idah and its associated groups. Countries should refuse entry to such persons prior to notification to and approval by the Committee. Experience has shown that such persons pose a particular danger to all countries. Such a measure, if applied rigorously by States, would significantly impair the mobility of the al-Qa'idah network.

88. The Group also suggests that the Security Council consider special designations for any person who is the subject of an arrest warrant related to possible al-Qa'idah or other associated terrorist activities. There should be a special obligation on all countries to stop, detain, and hold such persons for possible extradition to a country seeking to charge them.

VI. Arms embargo

89. To date, no attempts by designated individuals or entities to breach or circumvent the arms embargo measures have been uncovered or reported to the Committee or the Group by any States. Nonetheless, as recent terrorist attacks referred to in the present report demonstrate, al-Qa'idah, the Taliban and their associated terrorist groups are still able to acquire adequate quantities of weapons and explosives where and when they need them. This fact has been demonstrated by reports over recent months of a marked increase in the number and the intensity of attacks against coalition forces in Afghanistan.

90. The Group has continued to assess the effectiveness of the arms embargo, as called for in resolutions 1390 (2002) and 1455 (2003). But, as it has stated in previous reports, it is heavily dependant on timely, accurate and detailed information from States. Nevertheless, the Group has had to rely only on reports obtained from open sources regarding weapons seizure in Afghanistan and elsewhere.

91. Requests by the Group for specific details of such seizures from the parties concerned have, for the most part, been ignored. The Group appreciates that when coalition forces discover arms caches in Afghanistan the safety of the troops

involved is a primary consideration. It is also aware that ammunition and projectiles that have been stored in substandard conditions for long periods are likely to be unstable and are best destroyed in situ, making it difficult to obtain data concerning the origin and provenance of the items. But the fact that attacks against coalition forces in Afghanistan have intensified, while at the same time stocks of ammunition are still being discovered and destroyed, would indicate that the attackers are relying more and more on new supplies.

92. Since the beginning of this year, coalition forces have been subjected to some 68 direct attacks and 99 indirect attacks, a total of 167 attacks. This is an average of 33 attacks per month, a marked increase compared with the previous year's total of only 216 attacks, an average of 18 incidents per month.

93. The Group has also been informed that among the instances of projectiles being fired recently against coalition forces by the Taliban, remnants of al-Qa`idah and their supporters, 122 mm rockets have been used on one or two occasions. This use of a heavier calibre weapon is a departure from the previous practices of the enemy forces that continue such engagements in the Afghan regions bordering Pakistan. The above-mentioned facts, taken together, raise questions as to how and by whom these weapons and ammunition have been supplied.

94. The Group notes that substantial efforts are being made by the Government of Pakistan to control its extensive and difficult border with Afghanistan.[22] They have achieved some notable successes, included a substantial number of arrests of members of al-Qa`idah and their supporters. Despite these efforts, attempts continue to be made to smuggle weapons and ammunition in this region, as demonstrated for example by the recent seizure in North Waziristan. According to a media report, on 23 April 2003 the "Pakistan political administration" seized 120 rocket projectiles of Russian origin, five missiles and other weapons, found in a car that had been stopped at the Eisha check post. Two tribesmen were arrested. There was evidence that the consignment was to be transported to Afghanistan via Ramzak on the Afghan-Pakistani border.[23]

95. The Group has not yet ascertained for whom the weapons were intended — for al-Qa`idah, remnants of the Taliban or one of the many local warlords. The continued presence in the area of Gulbuddin Hekmatyar and allegations that he is orchestrating some of the attacks against coalition forces with members of al-Qa`idah and the Taliban cannot be ignored, nor can the probability that his fighters need to be supplied with arms and ammunition. Hekmetyar, along with al-Qa`idah, the Taliban and their associates, are on the list. As such, he is subject to the arms embargo called for in resolutions 1390 (2002) and 1455 (2003).

96. The nature, origin, destination and consignee of the weapons and ammunition that have been uncovered are of considerable interest to the Group in the discharge of this part of its mandate. States are therefore urged to cooperate more fully with the Group and to supply it with the information it requires, as provided in paragraph 7 of resolution 1455 (2003).

97. The requirement for, and the continued use of, small arms and light support weapons are not confined to the ongoing situation in Afghanistan. The activities of groups associated with al-Qa`idah in Algeria, Chechnya and the Philippines and, as indicated above, in the recent attacks in Riyadh (see para. 13 above) clearly demonstrate that the network is able to acquire all the arms and ammunition it needs

for its operations. This fact emphasizes the need for greater efforts on the part of all States to interdict the movement of weapons to al-Qa'idah.

98. The Group also continues to follow up on the attempted attack against an Israeli airliner near Mombasa in late November 2002. This attack allegedly involved al-Qa'idah. The Group has asked the Kenyan authorities for details of the batch number of the missile launchers used in the attack.

99. It has been reported, in some press articles, that the missiles used in this attack came from a batch of weapons manufactured in 1973 and later shipped from Afghanistan to Somalia, arriving there by boat, before being smuggled into Kenya. The Group has received no information thus far to enable it to confirm to the Committee that these reports are correct. The Group has, without any success to date, approached a number of States, seeking their assistance in this matter.

100. The fact that such an attack was attempted by al-Qa'idah should be of considerable concern to all those States that are in the forefront of the fight against al-Qa'idah and those that are high on the network's threat list. It cannot be forgotten that al-Qa'idah has demonstrated, more than once, its perseverance in attacking the targets it has chosen. Al-Qa'idah had two attempts at destroying the World Trade Center in New York. Similarly, the first suicide boat attack, against the *USS The Sullivans*, in January 2000, failed. But, al-Qa'idah learned from that experience and successfully attacked the *USS Cole* 10 months later in Aden Harbour, Yemen.

101. The Group strongly recommends that, whenever possible and provided that personal safety is not jeopardized, the markings of the weapons and ammunition found in caches in Afghanistan or in the follow-up investigations of known incidents be registered and passed to the appropriate law enforcement agencies for further investigations. They should also be made available, on request, to the Group, to assist the expert members in their work for the Committee.

102. One possible solution for improving the monitoring of the movement of weapons in the Afghan-Pakistani border region and increasing the number of successful seizures could be to make greater use of the local population. It is no secret that weapons smuggling is traditional in the area. It is quite normal for the local tribesmen to carry guns. The Pakistani border services should be strengthened with further assistance from the international community. A new border service should also be established in Afghanistan, in line with the development of the country's new security services.

103. The situation with respect to al-Qa'idah cells in Europe is different. Apart from the "Frankfurt Group" that was dismantled in December 2001, none of the cells which have been rounded up to date have been found to possess any kind of weapons or military explosives. Nevertheless, it is of great concern that these cells were trying to manufacture home-made explosives with commercially available off-the-shelf products. This approach is in keeping with the instructions laid down in the al-Qa'idah training manuals. It is also highly probable that some of the cell members had learned the techniques involved while in training camps in Afghanistan or in new terrorist camps reportedly in Chechnya, the Pankisi Gorge in Georgia or in the Philippines.

104. All it takes to make an improvised explosive device is to mix the appropriate chemical products, fertilizers or even pharmaceutical ingredients, combined with nails, ballbearings or just pieces of sharp metal. The effect of exploding such

devices, especially in crowded places such as bus stations or shopping malls, is devastating, guaranteeing a high toll in deaths and maiming injuries. Only an alert public and an excellent and rapid exchange of information between intelligence and law enforcement agencies can help reduce the incidence of such terrorist attacks. In the case of al-Qa`idah such attacks continue to be part of the threat posed, as suicide attacks are very much the modus operandi of the network.

105. The Group continues to monitor the situation with regard to weapons of mass destruction or "disruption". In many ways the latter term is possibly more pertinent. There is evidence, from al-Qa`idah training manuals and other intelligence, that al-Qa`idah has investigated the ways and means of developing such weapons. Al-Qa`idah had created, in addition to its "military committee", a "weapons of mass destruction committee", which is known to have approached a number of Muslim scientists of various nationalities to assist the terrorist network with the creation and procurement of chemical, biological, radiological and nuclear weapons.[24]

106. Fortunately, to date, the Group has only been made aware of two cases in which al-Qa`idah possibly thought to use some form of weapon of mass destruction: that of Jose Padilla, the alleged "dirty bomber" arrested at Chicago airport on 8 May 2002 and that of the traces of Ricin found when al-Qa`idah cells were broken up in a number of locations in the United Kingdom, in December 2002. This is not to say that al-Qa`idah is not still intent on attempting an attack using weapons of mass destruction at some stage in the future.

107. The Group considers that it is important to keep the use of weapons of mass destruction by the al-Qa`idah network in perspective. There is a major difference between packing a mini-van with home-made explosives, mixed in a back street garage, and manufacturing a nuclear weapon. The latter requires a high level of technical expertise, ranging from physics to explosive technologies, the acquisition of fissionable material in significant quantities and, above all, appropriate facilities in which to assemble such a device. It would also have to be tested. Then consideration has to be given to a means of delivering the weapon to its target.

108. Of greater concern is the possibility of al-Qa`idah acquiring a weapon of mass destruction and/or a delivery means from "rogue" elements or as a result of lax security at a nuclear weapons arsenal. In order to reduce the chances of al-Qa`idah obtaining a nuclear device, special efforts must be undertaken to ensure that or all countries which possess nuclear weapons maintain the strictest controls and security regimes at all times. These regimes should be constantly subject to audit and scrutiny.

109. There is a much higher probability that the network will continue its efforts to develop an improvised radiological dispersion device — a so-called "dirty bomb". The construction of such a device is relatively unsophisticated and, as will be described later, the availability of radiological material is greater. The advantage of an improvised radiological dispersion device is that it tends to produce a huge psychological effect, out of all proportion to its physical effects, which tend to be relatively localized. The degree of panic caused among the population and the perceived contamination would have a very disruptive effect — hence the reference at the start of the section to weapons of mass disruption.

110. The International Atomic Energy Agency (IAEA) has stressed on a number of occasions,[25] that illicit movements of nuclear materials and radioactive sources are

numerous and widespread. This constitutes a major threat to international security as such items could fall into the hands of terrorists, including al-Qa`idah.

111. During the past 10 years, 477 cases of illicit trafficking of nuclear and other radioactive material have been recorded by IAEA, including 200 cases involving nuclear material. The most likely method of acquisition of nuclear material for a terrorist group would be by theft or diversion, or acquisition on an illegal black market. Although most of the nuclear material trafficking cases reported to the IAEA database involved nuclear material not useable for nuclear weapons, on several occasions weapons-grade uranium and plutonium were trafficked. Some incidents appeared to have involved just samples of larger amounts of weapons-usable nuclear material.

112. As the profits for the smugglers from this kind of trafficking tend to be high and immediate, it appears to be quite common for those involved to be relatively amateur or opportunistic criminals, with no buyers identified in advance. More sophisticated, demand-driven nuclear theft and smuggling might be less vulnerable to detection by police, customs, intelligence or radiation sensors. To date, IAEA has recorded no cases of the successful acquisition of weapon-usable nuclear material by a terrorist group. However, open sources reveal well-documented interest on the part of some terrorist groups in obtaining such material and using it in malevolent acts.

113. In addition to the risks noted above, States must also consider the potential threat to or risk of sabotage of nuclear facilities and radioactive sources. Such attacks would produce heavy radiological contamination and environmental damage in the targeted area and further afield, depending on the wind and other meteorological conditions.

114. As the first line of defence against such a threat, the Group strongly urges Member States to join the Convention on the Physical Protection of Nuclear Material, including States which, though they have no domestic nuclear programme, are used as transit routes for nuclear materials. The Convention,[26] adopted in 1979, entered into force on 8 February 1987. It has, to date, 45 signatories and 86 contracting parties. This convention is the foundation stone of measures for the physical protection of nuclear material and efforts currently being made to strengthen it.

115. The theft and trafficking of radioactive sources are a global phenomenon. There are hundreds of thousands of sources worldwide, at thousands of locations, many with poor protection against malicious acts or theft. Furthermore, the reporting of thefts and trafficking of radioactive sources appears to be less complete than in the case of nuclear materials.

116. Regarding the chemical threat, the Group is very concerned by the potential for attacks on chemical production facilities. In addition to the damage that would result from such attacks, there is a likelihood of a high level of panic and disruption, with severe economic consequences. It would be easier for al-Qa`idah "sleeper cells" to blow up gas tanks or chemical storage facilities than to develop by themselves some form of chemical weapon. Nevertheless, this latter possibility cannot be ruled out. Many press articles, apparently quoting a Central Intelligence Agency report,[27] have mentioned that al-Qa`idah and some of its associate groups are able to develop procedures for making mustard agent, and nerve agents such as sarin, tabun and VX. The Group has no information, so far, to confirm such reports.

117. Mustard agent is not commercially available. The synthesis used in its production does not require great expertise and it can be produced following diagrams and procedures. Inhalation of mustard agent damages the lungs, affecting breathing and causing death by suffocation in the most extreme cases due to water in the lungs. The symptoms normally appear within six to 24 hours after skin contact or inhalation.

118. Sarin, tabun and VX are highly toxic military agents that disrupt a victim's nervous system by blocking the transmission of nerve signals. Fortunately, these nerve agents are not commercially available and significant chemical expertise is needed to make them. Exposure to such nerve agents can lead to death by causing severe physical disarray, such as salivation and convulsions. Victims of these agents must be treated immediately if they are to be saved.

119. The main factor to be taken into account when dealing with such chemical weapons is dispersion. This factor varies according to the size of the target and the effects expected. It is for this reason that such chemical attacks are more effective when concentrated in a confined space or made using a ventilation system, rather than used to attack a widespread area, which would require huge quantities of toxic gas.

120. Another type of attack which has to be anticipated is the poisoning of water distribution networks. Such an attack was directed at the United States Embassy in Rome, last year. It involved pouring cyanide into the water pipes connected to the embassy. Fortunately, the terrorists were arrested before committing this attack. But, such attacks cannot be ruled out in the future.

121. Finally, the risk of a biological attack must also be considered. Nobody knows exactly what kind of toxins or viruses may be in the hands of the terrorists or they may attempt to acquire. Consequently, all scenarios are possible, even the most shocking ones.

122. The Group has closely studied the reports received to date in order to review the steps States have taken to implement the arms embargo. It appears that States have in place laws and regulations to prevent violations of the embargo.

123. The Group has, in its previous reports, highlighted the concerns expressed by numerous countries with regard to the security of sea-going containers and the possible use of boats or ships as delivery means for improvised explosive devices or weapons of mass destruction. The location of a dozen or more ships, allegedly part of the "economic resources" of the al-Qa'idah network, remains somewhat elusive. It is believed that these are relatively small cargo vessels in the order of 3,000 to 5,000 DWT. These ships could be suitable to launch attacks using improvised explosive devices or weapons of mass destruction.

124. The Group has concerns about the security of sea containers for two reasons. The first, as mentioned above, is their possible use as a delivery means for some form of improvised explosive device or weapon of mass destruction. The second is the use of sea containers to transport conventional weapons and/or illicit radiological sources. Only the smallest percentage of containers can usually be checked owing to the sheer volume of units involved. This is especially true in the major ports of the world. Initiatives are being taken to reduce the risks of abuse of sea containers, not only for the reasons stated, but also to combat the smuggling of a variety of illicit items, for example drugs, fine art and even endangered species.

These efforts include the Container Security Initiative and measures being developed by the World Customs Organization.

125. A number of regional and multilateral organizations are already taking active measures to reduce the effect of ships and small boats being utilized as weapons systems or as a means of smuggling weapons and people.

126. The Group has to date visited major seaports, where appropriate, as part of its visits to States. During the coming months, the Group intends to expand its monitoring of this subject.

VII. Analysis of States' reports called for under resolution 1455 (2003)

Background

127. In paragraph 6 of resolution 1455 (2003), the Security Council called upon all States to submit an updated report to the Committee, no later than 90 days from the date of the adoption of the resolution, on all steps taken to implement the measures referred to in paragraph 1 of the resolution and all related investigations and enforcement actions, including a comprehensive summary of frozen assets of listed individuals and entities. The Security Council also called upon States to inform the Committee of the adoption of legislative enactments or administrative acts to enforce and strengthen the measures imposed against their nationals and other individuals or entities operating in their territory, to prevent and punish violations of the sanctions regime.

128. The Group, as requested in paragraph 12 of resolution 1455 (2003), assisted the Committee in formulating guidelines on the format of the reports. These were designed with a view to enabling the Committee to assess to what extent States have been able to implement the measures called for in the al-Qa`idah/Taliban sanctions regime and the difficulties they face in the process, and to try to identify areas in which they need to enhance their capacity to implement the measures called for. The Committee issued "Guidance for States in preparing reports pursuant to resolution 1455 (2003)"[28] comprising 26 questions grouped under six major headings: Introduction; Consolidated list; Financial and economic assets freeze; Travel ban; Arms embargo; and Assistance and conclusion.

129. The Group designed a template to serve as one of the tools for evaluating States replies and to assist with the provision of guidance and advice to the Chairman of the Committee concerning the status of the assessment of the reports. Final application of the template is under consideration in view of the need to adjust its format in line with the replies already received and reviewed.

General observations on reports submitted

130. The Group reviewed the reports submitted to the Committee to date. In coordination with the Secretariat, the Group established the order of priority for the translation of reports submitted in languages other than English, to enable them to be reviewed by its members. The low number of replies received has limited the ability of the Group to fully assess progress and difficulties States may be facing in implementing the sanctions regime called for against al-Qa`idah and the Taliban.

Nonetheless, the information contained in some States' reports is proving to be extremely valuable.

131. The majority of responses submitted were prepared according to the guidance provided by the Committee. This has simplified the work of the Group by allowing its members to focus on segments of the reports related to their specific areas of expertise. In cases where adherence to the Committee's guidance was not followed, the Group reviewed the content of the reports taking into account the requirements spelled out in the resolution. The Group also re-examined States' replies requested in paragraph 6 of resolution 1390 (2002) and checked those submitted under resolution 1373 (2001), in cases it deemed appropriate to help it in determining whether the necessary steps had been taken to implement the sanctions measures pursuant to resolutions 1390 (2002) and 1455 (2003).

132. In general, the submissions that did not follow the structure proposed by the guidelines were also lacking in substance. In a number of cases, some of the details of the actions taken by States that would have served to demonstrate the efficacy or inadequacy of the measures adopted were not clearly stated.

Various issues, as reflected in the 90-day reports

133. The overall assessment of the sections of States' replies relating to the financial and economic assets freeze, the travel ban and the arms embargo has been given previously in the present report. References to these headings will only be made where necessary in the appraisal of the reports submitted pursuant to paragraph 6 of resolution 1455 (2003).

134. For the most part, the review of the reports indicates that countries have either enacted, or updated existing, legislation and have taken practical steps to implement the specific requirements of the Taliban/al-Qa'idah sanctions regime. Some have passed comprehensive counter-terrorism legislation, including mechanisms to prevent terrorist acts both within and outside the State's territory, and have adopted policies to facilitate the sharing of information with other States' authorities.

135. The countries which have also signed and/or became parties to the International Convention for the Suppression of the Financing of Terrorism have either enacted or are in the process of updating specific legislation to deal with the financing of terrorist activities. Some have passed anti-money-laundering legislation and have amended their penal codes to incorporate measures to criminalize money-laundering activities, while others have adopted provisions to increase oversight of their banking systems. As of 5 June 2003, 132 countries had signed the Convention and 84 had become parties to it. The Convention entered into force on 10 April 2002.[29]

136. It has also been reported that, despite the existence of vigorous legal instruments, several States still lack specific provisions to deal with the financing of activities related to al-Qa'idah and other terrorist activities. In most of these cases, it was also noted that the necessary legislation was under discussion.

137. Fifteen States provided information on assets frozen. The remainder indicated that their authorities had neither located nor frozen funds belonging to designated individuals and entities. Some provided the names of the individuals and entities whose bank accounts have been frozen while others provided an approximate value of funds, mostly bank accounts, frozen to date. Among these names, in some cases,

were some not included on the list. At times the amounts reportedly frozen have been of limited significance. One State reported that it had requested the Committee's authorization to release frozen funds, in accordance with Security Council resolution 1452 (2003), which provides for exemption for humanitarian and extraordinary expenses. (See para. 38 above.)

138. On the whole, States have taken steps to expand border control measures. These have included the adoption of stringent policies on the granting of visas and the updating of lists of nationals who need a visa to enter the country, the strengthening of entry control systems and procedures, and the adoption of tighter rules to manage stays, involving registering foreigners upon arrival, as well as monitoring their exit. No country reported that its authorities had identified any of the listed individuals trying to enter or transit their territories. Moreover, no instances were reported of a visa application being made by a designated individual.

139. To a great extent, the Committee's list has been incorporated in States' legal systems through regulations adopted under the United Nations acts, executive decrees, normative acts or a combination of the above. In the case of the European Union countries, the list has been incorporated in national legislation through a European Council regulation.

140. Almost half of the reporting States indicated that they had encountered problems with regard to the list. Of these States, a few underscored the fact that several names, including some from the Taliban section of the list, could not be included by their border and immigration authorities in their national "stop list". The remaining responses indicated that names for which the required minimum identification data were provided, such as name/surname, date and place of birth, had been entered in the national border lists. The information technology systems adopted in most reporting countries usually require, at a minimum, the last name, first name and year of birth.

141. Notwithstanding the constraints mentioned with regard to the format of the list, States, for the most part, did not consider them as constituting impediments for the implementation of the al-Qa`idah/Taliban sanctions regime. Only a few countries stated that the main obstacle to the implementation of the sanctions regime was related to technical shortcomings with regard to those names for which the minimum identification data are not available. They also contended that to implement effectively the measures referred to in the Security Council resolutions, designated individuals must be accurately identified.

142. In general, the following elements were referred to as posing considerable constraints for the implementation of the list, particularly with respect to the travel ban and the freeze and control of financial assets:

- Lack of appropriate identifiers, such as full name (first and last name), date and place of birth;
- Inherent difficulties that arise in the process of transcribing Arabic names into English;
- Variations in the spelling of the names;
- Names which are very common, double names and use of political aliases in lieu of real names.

143. Some countries also stressed that in its current format, the list has the potential to generate mistakes, complicating and delaying the process of data verification. This results in the need for additional investigative and financial resources to sort out cases of "false hits" and effective matching of names with the names on the list. In some cases, financial and other authorities must re-enter the designated names into their own lists and, in the process, there is always the likelihood that errors and/or typographical mistakes may occur. Other countries noted that one of the problems they experienced was having to manage too many lists concurrently.

144. The information provided in relation to questions 4, 5 and 7 of the guidelines largely reflects that States have not, for the most part, identified individuals presumed to be linked to them by virtue of residence, citizenship or otherwise. In this connection, the bulk of the replies underscored that the authorities have neither identified any designated individuals inside their territory, nor have they found any designated individuals to be their nationals or to be currently resident in their country. Some countries indicated that positive identification of designated individuals and/or supporters of some designated entities had been established, adding that in those cases all measures referred to in the resolution had been implemented and, in some instances, accounts had been frozen accordingly.

145. Several States provided a list of names of individuals and entities accompanied by relevant identifying information, requesting that they be added to the list. On the other hand, the risk of compromising intelligence and enforcement activities was alluded to as precluding some countries from putting forward new names and/or additional information on individuals and entities.

146. Around 15 per cent of the responses dealt with the issue of lawsuits or legal proceedings brought by designated individuals and entities against national authorities. It was reported that several individuals had filed a suit against the European Commission or the Council of the European Union (EU), before the Court of Justice of the European Communities for their inclusion in annex 1 of Council regulation 881/2002. It was also stated that in some cases no legal action had been initiated, but a number of individuals had undertaken a démarche through the appropriate authorities, in accordance with the Committee's guidelines on the matter, requesting that their names be de-listed. The United States reported that although no listed individual or entity had engaged in legal action challenging their inclusion in the list, several designated entities and one individual had filed suits in United States courts challenging their designation under the domestic authority of Executive Order 13224 and the International Emergency Economic Powers Act. For the most part, the petitions filed by designated individuals and entities challenging the freezing of their assets are still under consideration by the appropriate authorities.

147. Review of the reports shows that all States have a legal framework regulating the private ownership of arms and the production and export of military weapons and explosives. States also have regulations criminalizing related offences. For the most part, these measures were in place prior to the adoption of Security Council resolution 1455 (2003).

148. Although the majority of countries did not provide replies to the specific questions dealing with weapons of mass destruction, most of them are bound by the international conventions dealing with the proliferation of such weapons.

149. The Group has noted with satisfaction that some countries have, following the adoption of resolution 1455 (2003) and in accordance with previous recommendations of the Group, recently introduced new laws to register arms brokers operating from their territory and to closely monitor their activities.

150. Similarly, several countries have strengthened their export control regimes and have adopted more rigorous checks of end-user certificates received, as well as requesting delivery certificates to be issued by the buying countries. Some have even started to send verification teams on site, to confirm that the weaponry, ordnance or military equipment initially ordered has not been diverted. Moreover, many countries have introduced clauses into their sales contracts preventing the acquired goods from being re-exported without their permission.

VIII. Meeting with the International Criminal Court

151. Members of the Group met with officials of the Office of the Prosecutor-General of the International Criminal Court in The Hague to discuss the mandate of the Court and its possible application to combating terrorism. The Group was impressed that the scope and authority granted the Court under its Rome Statute appears quite relevant to combating terrorism, particularly some of the crimes committed by al-Qa`idah.

152. While the International Criminal Court has not been given jurisdiction, as such, over crimes of terrorism, it has been empowered to address crimes of genocide, crimes against humanity and war crimes.[30] The Group reserves its judgement as to whether the Court should be asked to play any specific role in this regard.

IX. Conclusions

153. Significant progress has been made in the fight against al-Qa`idah and the efforts to find and detain key al-Qa`idah leaders and to disrupt the network. This progress is due predominately to closer bilateral cooperation among certain States that recognize the worldwide nature and magnitude of the threat posed by this ideology.

154. Al-Qa`idah and its associated groups still pose a significant threat to international peace and security. They retain strong appeal among Islamic extremist elements around the world and are able to draw on a substantial number of cadres trained in Afghanistan or in other al-Qa`idah training centres.

155. The international banking system has had some success in dealing with money laundering and the financing of terrorism, but significant loopholes remain, particularly in areas with less developed banking systems.

156. Al-Qa`idah is increasingly concentrating its financial activities in areas that lack the resources to regulate such activities closely. This situation continues to pose significant risks worldwide.

157. Charities and the use of informal transfer mechanisms, such as *hawala*, continue to provide al-Qa`idah with a method of receiving and transferring funds for support and operational purposes.

158. Further success in bringing down the al-Qa`idah financial networks will require a sustained international effort, increased cooperation, information sharing and coordination.

159. The list provides the foundation for international cooperation with regard to the implementation of the measures set forth in resolution 1455 (2003). Significant progress has been made in improving the quality of the information provided on the list. However, it only contains a small subset of the critical membership of the al-Qa`idah network. This has substantially reduced the effectiveness of the resolution.

160. Despite the travel ban, members of the al-Qa`idah network have retained a high degree of mobility and have been able to initiate terrorist attacks in several countries around the world.

161. The review of countries' reports indicates that they have adopted measures to combat arms trafficking better by strengthening their national firearms legislation and their export controls regime. This is a significant contribution to the fight against the al-Qa`idah network.

162. Al-Qa`idah and its members are still able to acquire adequate quantities of weapons and explosives. Al-Qa`idah continues attempts to acquire weapons of mass destruction.

X. Recommendations

The reports submitted by States

163. The number of reports submitted to the Committee pursuant to paragraph 6 of Security Council resolution 1455 (2003) falls well short of the expectations expressed in the resolution and all countries that have not yet submitted their reports should be encouraged by the Committee to do so as soon as possible, particularly in the light of the requirement for the Chairman of the Committee to report, orally, to the Security Council by 1 August 2003.

The list

164. In paragraph 4 of resolution 1455 (2003), the Security Council stressed to States the importance of submitting to the Committee the names and identifying information, to the extent possible, of and about members of al-Qa`idah, the Taliban and associated individuals, groups, undertakings and entities, so that the Committee could consider adding them to the list. The Group believes that the provision of such information is essential to assure that the list remains an effective instrument.

165. The Group believes that the list should represent as complete a catalogue as possible of the persons and entities associated with the whole al-Qa`idah network, including those known to have participated in training in camps in Afghanistan and those belonging to associated terrorist groups.

166. The Group encourages States to keep the list up to date, to continue to provide all relevant information in order to facilitate proper identification of all listed individuals and entities, and to cooperate fully with the Committee and the Group in this regard.

The freezing of financial and economic assets

167. States that have not yet done so should ensure that they have taken all steps necessary to criminalize terrorist financing. Countries that have not yet signed and ratified the International Convention for the Suppression of the Financing of Terrorism should be encouraged to do so as quickly as possible.

168. States should continue to give high priority to searching actively for, locating and blocking financial and other economic assets associated with al-Qa'idah, the Taliban and associated individuals and entities. Those countries which have not yet issued blocking orders obliging their banking and other financial institutions to ascertain the possible presence of such assets should do so as quickly as possible. Special emphasis should be placed on identifying individuals and entities that knowingly contribute to supporting al-Qa'idah related activities, including indoctrination, recruitment and logistical support.

169. States should be encouraged to provide, through secure means, as much advance notice as possible to other interested countries concerning their intentions to designate individuals or entities. States receiving such notice should act to ensure that funds related to such pending designees are not transferred or otherwise dissimulated to escape the effects of designation. Specific points of contact should be established in each country for this purpose.

170. Financial institutions, working through regional and international groupings and associations should develop and share with other institutions useful "patterns" of terrorist funding behaviour, as well as other information relating to the identification of members of the al-Qa'idah network. Further cooperation should also be encouraged in developing and sharing software and other technical means to assist financial institutions in identifying and monitoring suspicious transactions.

171. Greater financial and technical assistance must be provided to countries which lack the resources to establish and implement appropriate financial transaction monitoring and control procedures. This effort should be given particularly high priority.

172. Further work is needed to better define and address issues relating to the regulation of charities and informal transfer mechanisms.

The travel ban

173. States that do not have electronic means of interrogating or verifying lists of designated individuals at all appropriate border entry points should be encouraged to instal such facilities as soon as is practicable.

The arms embargo

174. Whenever possible, the markings of weapons and ammunition found in caches in Afghanistan should be provided to the Group and law enforcement agencies.

175. The Group calls upon States to provide it, whenever possible, with all the specific data on all other seizures of weapons and explosives related to al-Qa'idah, the Taliban and groups associated with them, so that the Group can follow up on leads as tasked in resolution 1455 (2003).

176. The Group strongly recommends that States which have not already done so sign and ratify the following international conventions relating to the non-proliferation of weapons of mass destruction:

- The Chemical Weapons Convention
- The Convention on Biological and Toxic Weapons
- The Convention on the Physical Protection of Nuclear Material

177. The Group strongly recommends that all States systematically require delivery verification certificates for all weaponry, explosives and military equipment.

178. States are encouraged to work closely with the World Customs Organization in order to improve the security of container shipping.

Notes

[1] See Security Council resolution 1455 (2003), paragraph 6.

[2] Contained in documents S/2002/541, S/2002/1050/Rev.1, S/2002/1338.

[3] Contained in document S/2002/1338 of 17 December 2002.

[4] See the list of incidents attributed to the al-Qa'idah network in appendix III to the present report and in the corresponding annexes to the Group's previous two reports submitted under resolution 1390 (2002).

[5] See S/2002/541 and S/2002/1050/Rev.1.

[6] For an account of some of these problems see an article by Sarah Milstein in *The New York Times*, 30 December 2002.

[7] The guidelines can be found at http://www.un.org/Docs/sc/committees/1267/1267_guidelines.pdf

[8] Testimony of Juan C. Zarate, Deputy Assistant Secretary, Executive Office for Terrorist Financing and Financial Crimes, United States Department of the Treasury before the Foreign Relations Committee of the United States Senate, 18 March 2003.

[9] Of the 51 States that have submitted their reports in compliance with resolution 1455 (2003), 14 have declared assets of designated individuals or entities frozen, totalling an approximate equivalent value of US$ 75.8 million.

[10] Contained in document S/2002/1050/Rev.1.

[11] *Zakat* is one of the five pillars of Islam and any Muslim who abstains from paying it becomes a sinner. The authorities should levy *zakat* from him either willingly or by force. *Zakat* is obligatory on cash money and precious metals, gold and silver, as well as crops of plantation fruits and livestock, and commodities meant for trade. It is not obligatory for wealth that is not meant for trade. The *zakat* amount is 2.5 per cent of *Nisab*, the minimum amount on which *zakat* is imposable, after passage of one year on that (*Nisab*). *Zakat* is considered one of the sources of national income to be utilized by the State in meeting its obligation for the organization of people's lives, and fulfilment of necessities and public needs. *Source: Contemporary Jurisprudence Research Journal*, vol. VII, 1996.

[12] Prof. Rohan Gunaratna is the author of *Inside Al Qaeda, Global Network of Terror*.

[13] The latest FATF list of non-cooperative countries and territories (revised at the FATF XIV Plenary in Berlin, 18-20 June 2003) includes the Cook Islands, Egypt, Guatemala, Indonesia, Myanmar, Nauru, Nigeria, the Philippines and Ukraine.

[14] See http://www1.oecd.org/fatf/pdf/SR8-NPO_en.pdf

[15] The Group is following up with the States concerned to see if designated individuals are included.

[16] See annex III.

[17] Testimony by Steven Emerson, expert on terrorism, before the House Subcommittee on Immigration and Claims, United States Congress, on 25 January 2000: "False documents are as important to terrorists and their organization as their guns and bombs — they are tools that help them ply their international trade of death and destruction."

[18] See http://www.icao.int/icao/en/atb/fal/mrtd/guide.htm

[19] The number and nature of fields of information vary from airline to airline. There are some 20 to 25 possible fields. These can be expanded to include subsets of information, expanding the total to approximately 60 fields and subfields.

[20] For more information on the API system, see http://ftp.canadatourism.com/ctxUpholds/en_publication/Fact_Sheets_2002-05.pdf

[21] http://www.businessmobility.org/key/app.html

[22] The Pakistani Army has deployed up to 70,000 troops along its border with Afghanistan, in addition to the usual border units, such as the Frontier Corps and units of the Tribal Levies.

[23] *The Dawn*, 24 April 2003.

[24] According to information accessible to the Group, to date this weapons of mass destruction committee is composed of the following individuals who are said to be still at large: Midhat Mursi, also known as Abu Khabab, emir of the committee; Abu Khebab, chief chemical weapons scientist; Assadalah Abdul Rahman, chief of procurement.

[25] International Conference on the Safety of Radiation Sources and the Security of Radioactive Materials, Dijon, France, 14-18 September 1998;

International Conference of National Regulatory Authorities with Competence in the Safety of Radiation Sources and the Security of Radioactive Materials, Buenos Aires, 11-15 December 2000;

International Conference on Measures to Prevent, Intercept and Respond to Illicit Uses of Nuclear Material and Radioactive Sources, Stockholm, 7-11 May 2001;

International Conference on Security of Radioactive Sources, Vienna, 10-13 March 2003;

Meeting of the Inter-Agency Coordination Committee on the Illicit Movement of Nuclear and Other Radioactive Material, Vienna, 26-27 May 2003.

[26] This convention deals with the nuclear material used for peaceful purposes in domestic uses, storage and transport. It covers the international transport of nuclear material used for peaceful purposes, defines the protection of nuclear materials at prescribed levels, assesses the obligation of States not to export, import or allow transit of nuclear material unless assurances have been received, underlines the importance of international cooperation to obtain guidance on systems of physical protection. It makes specific acts criminal offences under national law. Finally, it establishes jurisdiction over offences and prosecuting or extraditing alleged offenders.

[27] Central Intelligence Agency report entitled "Terrorist CBRN: materials and effects".

[28] The text can be found at the Committee's web site: www.un.org/Docs/sc/committees/1267/guidanc_en.pdf

[29] More information on the status of the Convention can be found at http://untreaty.un.org/ENGLISH/Status/Chapter_xviii/treaty11.asp

[30] The International Criminal Court exercises its functions and powers, as provided by the Rome Statute, on the territory of any State Party and, by special agreement, on the territory of any other State.

Appendix I

Reports submitted pursuant to Security Council resolution 1455 (2003)

Country	*Date submitted*	*Document symbol*
Algeria	16 April 2003	S/AC.37/2003/(1455)/14
Angola	11 April 2003	S/AC.37/2003/(1455)/3
Argentina	22 April 2003	S/AC.37/2003/(1455)/29
Australia	15 April 2003	S/AC.37/2003/(1455)/13
Austria	17 April 2003	S/AC.37/2003/(1455)/27
Bahamas	15 May 2003	S/AC.37/2003/(1455)/43
Belarus	21 April 2003	S/AC.37/2003/(1455)/25
Brazil	17 April 2003	S/AC.37/2003/(1455)/36
Bulgaria	16 April 2003	S/AC.37/2003/(1455)/15
Canada	15 April 2003	S/AC.37/2003/(1455)/20
Chile	30 April 2003	S/AC.37/2003/(1455)/38
China	16 May 2003	Confidential
Colombia	21 April 2003	S/AC.37/2003/(1455)/39
Croatia	21 April 2003	S/AC.37/2003/(1455)/33
Cuba	17 April 2003	S/AC.37/2003/(1455)/30
Denmark	16 April 2003	S/AC.37/2003/(1455)/8
Finland	16 April 2003	S/AC.37/2003/(1455)/11
France	1 May 2003	S/AC.37/2003/(1455)/37
Germany	16 April 2003	S/AC.37/2003/(1455)/10
Guatemala	16 April 2003	S/AC.37/2003/(1455)/23
Hungary	7 April 2003	S/AC.37/2003/(1455)/1
India	11 June 2003	S/AC.37/2003/(1455)/49
Italy	25 April 2003	S/AC.37/2003/(1455)/40
Kuwait	17 April 2003	S/AC.37/2003/(1455)/31
Mauritius	17 April 2003	S/AC.37/2003/(1455)/22
New Zealand	17 April 2003	S/AC.37/2003/(1455)/21
Norway	4 May 2003	S/AC.37/2003/(1455)/48
Pakistan	17 April 2003	S/AC.37/2003/(1455)/35
Paraguay	16 April 2003	S/AC.37/2003/(1455)/18
Poland	17 April 2003	S/AC.37/2003/(1455)/16
Republic of Korea	16 April 2003	S/AC.37/2003/(1455)/9
Romania	20 May 2003	S/AC.37/2003/(1455)/47
Russian Federation	22 April 2003	S/AC.37/2003/(1455)/28
Saudi Arabia	19 May 2003	S/AC.37/2003/(1455)/42
Singapore	17 April 2003	S/AC.37/2003/(1455)/17

Country	*Date submitted*	*Document symbol*
Slovak Republic	2 May 2003	S/AC.37/2003/(1455)/41
Slovenia	23 April 2003	S/AC.37/2003/(1455)/34
South Africa*	16 April 2003	S/AC.37/2003/(1455)/12
Spain	15 April 2003	S/AC.37/2003/(1455)/5
Sweden	11 April 2003	S/AC.37/2003/(1455)/2
Switzerland	22 May 2003	S/AC.37/2003/(1455)/44
Syrian Arab Republic	27 May 2003	S/AC.37/2003/(1455)/46
Tajikistan	23 May 2003	S/AC.37/2003/(1455)/45
Thailand	12 June 2003	S/AC.37/2003/(1455)/50
The former Yugoslav Republic of Macedonia	15 April 2003	S/AC.37/2003/(1455)/4
Tonga	16 April 2003	S/AC.37/2003/(1455)/7
Tunisia	22 April 2003	S/AC.37/2003/(1455)/32
Turkey	16 April 2003	S/AC.37/2003/(1455)/6
Ukraine	15 April 2003	S/AC.37/2003/(1455)/24
United Kingdom of Great Britain and Northern Ireland*	17 April 2003	S/AC.37/2003/(1455)/19
United States of America	17 April 2003	S/AC.37/2003/(1455)/26

* Partially confidential

Appendix II

Summary of the visits of the Monitoring Group

	Country	*City*	*Activity*
1	Afghanistan	Kabul	Meeting with government officials
2	Austria	Vienna	Meeting with government officials; Meetings with IAEA, the Organization for Security and Cooperation in Europe and the United Nations Office for Drug Control; Meeting with the new Head of Secretariat for the *Wassenaar* Arrangement
3	Belgium	Brussels	Meeting with European Commission officials (of Directorate General 1)
4	Bosnia and Herzegovina	Sarajevo	Meetings with officials of the Office of the High Representative, the United States Embassy and at the headquarters of the NATO-led Stabilisation Force in Bosnia and Herzegovina
5	Bulgaria	Sofia	Meeting with government officials
6	France	Paris	Meeting with government officials and individual experts
7	Germany	Frankfurt and Mainz	Meeting with individual experts
8	Italy	Monza and Milan	Meeting with government officials and individual experts
9	Mexico	Cancun	Briefing for G-20 deputies
10	Netherlands	The Hague	Discussions with EUROPOL, the United States Embassy and the Office of the Prosecutor-General of the International Criminal Court
11	Pakistan	Islamabad	Visit deferred in accordance with a United Nations travel security advisory
12	Russian Federation	Moscow	Meeting with government officials
13	Saudi Arabia	Riyadh	Meeting with government officials
14	Switzerland	Lugano	Meeting with judicial officials
15	United Kingdom of Great Britain and Northern Ireland	London	Meetings with government officials and individuals experts
16	United States of America	Washington, D.C.	Meeting with government officials

Appendix III

Chronology of incidents allegedly linked to the al-Qa`idah network, since December 2002

5 December 2002, Pakistan

A bomb exploded at the Macedonian consulate in Karachi, Pakistan. Three local staff found dead, with their throats slit. No claim.

Persons killed: 3

27 December 2002, Russian Federation

Two trucks full of explosives were driven into the government headquarters building and detonated in Chechnya, Russian Federation. Russian officials believe the explosives had the force of one ton of TNT. A Chechen web site reported that Chechen *shaheeds* were responsible.

Persons killed: 72

30 December 2002, Yemen

A gunman killed three United States citizens in a Baptist missionary hospital in Jibila, Yemen. The gunman is supposed to have acted alone. He admitted being affiliated with the Islah party and having coordinated the attack with Ali al-Jarala.

Persons killed: 3

5 January 2003, United Kingdom

A joint operation of the anti-terrorist branch of the London Metropolitan Police, Scotland Yard and the British domestic intelligence agency, MI5, found the deadly poison, ricin, in a raid on an apartment in north London. The discovery was followed up, the next day, with raids in Manchester, in which a policeman was killed while arresting suspected al-Qa`idah supporters.

Persons killed: 1 policeman

12 May 2003, Russian Federation

Two suicide bombers drove a truck full of explosives into a government compound in Znamenskoye, northern Chechnya, Russian Federation.

Persons killed: 59

13 May 2003, Saudi Arabia

Explosions occurred at residential compounds in the Saudi capital, Riyadh, for foreign personnel who work in Saudi Arabia. The bodies of nine suspected suicide bombers were recovered.

Persons killed: 34 (at least nine different nationalities)

14 May 2003, Yemen

A bomb exploded in the courtroom in Jibila, 200 km south of the Yemeni capital, San'a, where a suspected al-Qa'idah militant had been condemned to death the previous week for killing three United States missionaries.

Persons killed: None (but several wounded including a judge)

14 May 2003, Russian Federation

Two female suicide bombers detonated bombs among crowds attending a Muslim ceremony in north-eastern Chechnya, Russian Federation.

Persons killed: 30

17 May 2003, Morocco

At least 13 suicide bombers carried out attacks in a luxury hotel, a Spanish club, a Jewish community centre, a Jewish cemetery and a narrow street between an Italian restaurant and the Belgian consulate in Casablanca, Morocco.

Persons killed: 41

5 June 2003, Russian Federation

A female suicide bomber blew up a bus carrying Russian air force personnel and civilians near the city of Mozdok in North Ossetia, near Chechnya, Russian Federation.

Persons killed: 15

7 June 2003, Afghanistan

A taxi loaded with an improvised explosive device was detonated against an International Security Assistance (ISAF) coach in the outskirts of the Afghan capital, Kabul. The coach was taking German troops to the airport.

Persons killed: 5

Appendix IV

Individuals, publicly identified, allegedly linked with al-Qa`idah

1 Abdallah Tabarak
2 Abdelkarim Hammad
3 Abdul Jamal Balfas
4 Abdul Karim
5 Abdul Khaliq Mihammed
6 Abdul Monem Ali Al-Ghamdi
7 Abdul Rahim Ayub
8 Abdul Rahman Jabrah
9 Abdullah Al Muhtadi
10 Abi Abdullah
11 Abou El Yazid
12 Abu Salah al-Yemeni
13 Abu Ubeid al-Qurashi
14 Adel Bou Haimed
15 Adnan G El Shukrijumah
16 Adnan Yasir
17 Ahmed Hamoud Al-Khaledi
18 Ahmed Raskar
19 Ahmed Salim Mikati
20 Ali Abdulrahman Ghamdi
21 Ali Khudair Fahd AL-Khudair
22 Ali Mohammad Hatem
23 Asif Zaheer
24 Baghdad Meziane
25 Bazaaoui Mondher Ben Mohsen
26 Ben Mouldi Kamel Hahraoui
27 Brahim Benmerzouga
28 Christian Ganczarski
29 Ciise Maxamed Cabdullah
30 El Ayasi Radi El Samie
31 Enrique Cerda Ibanez
32 Farzand Shah
33 Fawaz al-Rabeei
34 Faysal Galab
35 Federico Tarazona Tarazona
36 Fransisco Palop Monje
37 Hamza bin laden
38 Hisham Mubaeak AL-Hekami
39 Iffan-ul-Hassham
40 Ihab Hussein Dafaa
41 Ismat Kaka
42 Issa Ismail Mohamed
43 Jack Roche
44 Jack Thomas
45 Jawad al-Bashar
46 Karim Mehdi
47 Khaled Jehani
48 Khaled Minawi
49 Khaled Nazem Diab
50 Khizer Ali
51 Maher Hawash
52 Majdi Ahmed Al-Khabrani
53 Maqboul al-Maqboul
54 Maria Dolores Cerda Ibanez

55 Mevlit Zikara
56 Mohamad Amin Musa
57 Mohamed Amin Mostafa
58 Mohamed Suleiman Nalfi
59 Mohammad Yahia Al kaaki
60 Mohammad Sethi Naouar
61 Mohammed Abrar
62 Mohammed al-Mutairi
63 Mohammed Altaf
64 Mohammed bin Laden
65 Mohammed Daki
66 Mohammed Mohsen Yahya Zayed
67 Mohammed Ramez Sultan
68 Mohammed Tahir Hammid
69 Mohd. Abdul Fattah Muhammad Karam
70 Mohsen al-Fadhli
71 Moueen Hussein Abdul Rahman
72 Mourad Trablesi
73 Muhamad Usman
74 Muhammad Salim Al-Ghamdi
75 Mukhtar al-Bakri
76 Mustafa Hamza
77 Nabil Okal
78 Nasir Hamad Al-Fahd
79 Nourredine Drissi
80 Omar Bandon
81 Omar Mubarak AL-Hekami
82 Parlindugan Siregar
83 Rifa ahmed Taha
84 Robert Pierre aka Abu Abderrahman
85 Saad Abdul Razak Al-Ghamdi
86 Sabahudin Fjuljanin
87 Sahim Alwan
88 Saif al-Din al Ansari
89 Saif bin Laden
90 Saifullah Yunos
91 Salem Saad bin Suweid
92 Saud bin Ali bin Nasser
93 Seikh Saiid al-Masri
94 Shafal Mosed
95 Sheik Mohd. Ali Hassan al Mouyad
96 Sulieman Abdalla Salim Hemed
97 Syawal Yasin
98 Taleb Ahmed Kareem
99 Tamsil Linrung
100 Tarek Hdia
101 Turki Mishal Dandani
102 Turki ibn Abdul Aziz Al-Fuhaid
103 Umar Karar
104 Walid Naouar
105 Wan min Wan Mat
106 Yahya Goba
107 Yasser Fatih Ibrahim

United Nations S/2003/669/Corr.1

Security Council

Distr.: General
17 July 2003

Original: English

Letter dated 7 July 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) addressed to the President of the Security Council

Enclosure

Corrigendum

1. **Paragraph 27**

   The paragraph *should read*:

   27. The Group will also continue to work with the Secretariat to improve the al-Qa'idah section of the list. It plans to renew contacts with officials from those countries to which designated individuals are presumed to be linked, by virtue of residence and/or citizenship, in order to seek additional information that could help to update and improve the quality of the list.

2. **Paragraph 38**

   The paragraph *should read*:

   38. It appears from the reports submitted by States, and available statistical information, that few assets other than bank accounts have been frozen. There is little indication from the reports, or other available information, that any great effort has been engaged in locating and freezing other types of assets. Nonetheless, most countries have indicated authority to freeze "other financial assets and economic resources", whether tangible or intangible, moveable or immovable. In this regard, following an application by the Government of Switzerland to the Committee under resolution 1452 (2002), the Group has become aware that Mr. Youssef Nada, an individual who was designated by the Committee in 2001 for helping to finance al-Qa'idah activities, continues to own and/or control "financial assets and other economic resources", including investment funds and real estate, in Liechtenstein and in Campione d'Italia. The Group is aware that the Swiss authorities are looking into the situation. However, the Group still considers that such assets should be frozen without delay.

03-43278 (E) 180703

United Nations S/2003/670

Security Council

Distr.: General
25 June 2003

Original: English

Letter dated 23 June 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 9 May 2003 (S/2003/532).

The Counter-Terrorism Committee has received the attached supplementary report from the Republic of the Congo, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-41212 (E) 090703

Annex

[Original: French]

Letter dated 16 June 2003 from the Permanent Representative of the Congo to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to transmit to you the attached supplementary report submitted by the Republic of the Congo concerning the implementation of Security Council resolution 1373 (2001) (see enclosure).

This report provides answers to the questions asked by the Committee.

My Government reaffirms its desire to collaborate with the Counter-Terrorism Committee and remains ready to provide any other information that may be required.

(*Signed*) Basile **Ikouebe**
Permanent Representative

Enclosure

Supplementary report of the Government of the Republic of the Congo pursuant to Security Council resolution 1373 (2001)

Introduction

Pursuant to paragraph 6 of Security Council resolution 1373 (2001), the Republic of the Congo, on 30 August 2002, submitted to the Counter-Terrorism Committee its initial report on measures taken domestically to prevent and combat terrorism.

The present supplementary report was prepared in response to the questions raised by the Counter-Terrorism Committee following its consideration of the initial report of the Government of the Congo. The Republic of the Congo takes as its basis the letter from the Counter-Terrorism Committee dated 2 December 2002, addressed to the Government, in providing supplementary information to assist the Committee to gain an appreciation of the laws and regulations applying to terrorism and its consequences under Congolese law.

This report replies sequentially to the questions as they appear in the letter of the Committee dated 2 December 2002.

I. Paragraph 1 (a) and (b)

I.1 What laws have been enacted and how is the legislation described in the report by the Congo applied?

As indicated on page 4 of the English text of the initial report of the Congo, the country has not yet enacted specific counter-terrorism legislation. To that end, the Congolese Government is making every effort to create the material conditions for preventing and combating terrorism. Thus, in order to meet the requirements of counter-terrorism effectively, texts are currently being prepared for the establishment of a Standing National Counter-Terrorism Commission. The Commission will be the cornerstone of counter-terrorism measures and its principal tasks will be:

- To draw up special counter-terrorism legislation through the preparation of draft laws on terrorism; to introduce into the Congolese legal system the provisions of the international conventions relating to terrorism;
- To propose administrative standards to the Government;
- To follow up terrorism issues at the national and international levels;
- To draft national reports on counter-terrorism measures;
- To establish a juridical database relating to terrorism.

I.2 Can funds collected in Congolese territory by Congolese nationals or residents be diverted for financing acts of terrorism unrelated to the Congo?

Fund-raising and the collection of contributions or gifts of all kinds, irrespective of their intended purpose, is governed by an administrative procedure. Decree No. 2833 of 5 October 1949 regulating fund-raising and the collection of contributions in French Equatorial Africa is in force in the Republic of the Congo.

Article 1 of the decree provides: "fund-raising, the collection of contributions, and appeals to the public for the collection of funds or gifts in kind for whatever purpose are prohibited in French Equatorial Africa, except where authorized by the Governor General, governors, or territorial or regional chiefs, depending on whether the operations envisaged concern the Federation as a whole, a territory or a region".

It is evident that, despite the legal guarantees of fundamental freedoms and rights enshrined in Congolese law, nationals and aliens are obliged to comply with the laws and regulations relating to the organization of the State with respect to fund-raising. Article 3 of the above-mentioned decree provides: "the request for authorization must indicate the purpose of the sums or gifts to be collected as well as the names of the persons organizing the fund-raising or collection of contributions, and the date, duration and territorial limits of the fund-raising or collection of contributions".

However, if there is substantial proof that the purpose of the collection of funds, contributions or gifts organized in the national territory by organizations of nationals or aliens is to finance the commission of acts intended to disturb public order or to promote the commission of actions set forth in Security Council resolution 1373 (2001), such collection of funds is an offence punishable under the criminal law.

In the light of the foregoing, we can assert that fund-raising organized in Congolese territory cannot be diverted to serve the interests of terrorism. Indeed, article 4 of Decree No. 2833 of 5 October 1949 provides that: "The net proceeds of fund-raising, contributions and appeals to the public may not be diverted, on pain of prosecution, from the purpose stated in the application mentioned in article 3. A balance sheet of receipts and expenditures shall be addressed to the competent authority, together with a detailed statement of the use made of the sums collected".

Furthermore, the organization of Congolese citizens or residents who commit offences against the provisions governing fund-raising in the Republic of the Congo is punishable under article 265 of the Penal Code which provides: "Any conspiracy directed against persons or property is a crime against public order".

Similarly, it is important to note that the actions referred to in paragraph 1 (b) of resolution 1373 (2001) do not fall outside Congolese normative provisions relating to crimes and offences. Where funds collected by organizations of nationals or residents have a link with the financing of terrorist acts inside or outside the Congolese State, whether for a religious, charitable or cultural purpose, such operation constitutes a crime against the internal and external security of the State. Article 103 of the Penal Code provides that: "Any person who, having knowledge of plans or acts of treason or espionage, fails to declare them to the military, administrative or judicial authorities at such time as such person comes aware of such activity, shall be subject to the penalties set forth in article 83".

II. Paragraph 1 (c) and (d)

II.1 Application of the rules of the Central African Banking Commission (COBAC) by the Republic of the Congo in the implementation of resolution 1373 (2001)

The COBAC rules are designed to ensure the financial stability of Central Africa. These rules also help to meet the legal challenges imposed by the pursuit of

the purposes set forth in Security Council resolution 1373 (2001). In general, the rules are of undeniable importance in counter-terrorism. As set forth in the initial report on pages 5 and 6 of the English text, they play a role in monitoring the operations of credit institutions at the national and regional levels. The financial institutions and bodies, in accordance with the community regulation in force in all the member States of the Central African Economic and Monetary Community (CEMAC) are required to comply with those regulations. Consequently, a body in the credit sector is prima facie identified by its legal status which confers on it the enjoyment of the rights related to such status and, by the same token, makes it subject to a certain number of obligations.

The Salu Humberto Brada case very explicitly illustrates the firmness of the COBAC rules.

II.2 The Salu Humberto Brada case

Salu Humberto Brada is a limited import-export company incorporated in Congolese territory which also engages in financial operations which, under the law applicable to credit institutions, do not belong to the informal sector although the company claims that such operations are not comparable with those carried out by traditional credit institutions.

From the legal point of view, the Salu Humberto Brada company raises enormous legal and functional problems in the general framework of the credit system in the Republic of the Congo, namely:

- The determination of the legal status of the firm, in compliance with the regulations in force;
- The nature of the property right of the firm;
- The nature of the financial operations carried out;
- The origin of the firm's financial resources; and
- The charging of non-standard interest rates.

After considering the situation of Salu Humberto Brada, the Government of the Republic of the Congo reached the conclusion that the firm, by disguising its legal personality, was not complying with the current regulations governing the management of credit institutions. Consequently, and in order to impose the legislation in force, the competent Congolese authorities froze the firm's bank accounts.

As we can see, the COBAC rules are an important means of preventing and combating terrorism in that they provide the means of preventing the circulation of illicit proceeds, particularly money-laundering, and transfers of atypical funds which might possibly be used to support unacknowledged terrorist causes.

The Committee also seeks information on the Department of Credit and Financial Affairs (DGCRF) of the Ministry of Economy, Finance and the Budget, as well as on the operations carried out by that institution, in particular, the monitoring of atypical financial flows and the existing rules and procedures to enable the intermediaries of credit institutions such as lawyers, and accountants when acting as brokers, to report suspicious financial transactions.

II.3 What are the existing or proposed mechanisms to enable the Department of Credit and Financial Affairs to monitor atypical financial flows; in particular, what laws and procedures are in place in that connection?

The Department of Credit and Financial Affairs is a body responsible for monitoring financial relations between the Congo and foreign countries. Such monitoring covers financial operations involving other countries of banks established in the national territory. In addition to the responsibilities and objectives of the Department that were set out on page 3 of the English text of the initial report of the Government of the Congo, that body includes a monitoring mechanism which enables it to control financial flows between the Congo and foreign countries and thereby to identify atypical transactions.

The monitoring mechanism of the Department of Credit and Financial Affairs comprises two parts:

II.3.1 Prevention

The Prevention aspect comprises monitoring in four stages:

- Monitoring of establishments that have an obligation to make declarations, namely credit institutions (approved intermediaries), currency exchange offices, physical or legal persons engaging in financial operations with foreign countries;
- Quantitative limits: the remittance outside the country of any sum greater than 1 million CFA francs is prohibited;
- Transfers of international credit funds must be made through a credit institution. In other words, any transfer of funds to a foreign country or coming from abroad in an amount greater than 1 million CFA francs must be made by a credit institution or an authorized banking institution;
- Monitoring of the transparency of financial operations. This is effected through the identification of physical or legal persons with a view to controlling economic entities involved in transfers operations. Such monitoring makes it possible to determine the legal personality, the geographical location, the objectives and the nature of the operations effected by those carrying out the transfers.

II.3.2 Detection

Detection comprises three phases:

- Scrutiny of reports of financial operations. Credit institutions are obliged to declare all operations made by them to the Department of Credit and Financial Affairs and to ensure compliance with the requirements in force;
- Preventing the carrying out of operations where the conditions are not in compliance with established standards;
- Prohibiting recourse to the claim of confidentiality of communications.

Similarly, it is to be noted that the machinery set out above enables the Department of Credit and Financial Affairs to detect atypical transfers and to apply

the penalties and fines provided for in the rules of the Central African Economic and Monetary Community (CEMAC).

II.4 How are the intermediaries of financial institutions able to report suspicious financial operations?

The intermediaries of financial institutions such as lawyers, accountants and others acting as brokers are protected by the laws and regulations of the Republic of the Congo. Congolese law guarantees the fundamental rights of the individual, in particular freedom of opinion and expression. Article 12 of the Charter of Rights and Freedoms of 11 July 1991 provides that: "every person shall be entitled to freedom of opinion and expression, which implies the right not to be harassed on account of his or her opinions, and the right, without regard for frontiers, to seek, receive and disseminate information and ideas by any means of expression consistent with the laws and regulations in force".

With regard to the foregoing, we can say that freedom of opinion and expression is a legal mechanism which enables lawyers, accountants and others involved in financial dealings to identify all necessary information concerning irregular transactions.

III. Paragraph 2 (a)

III.1 What laws are in place or proposed to deal with the transborder aspects of terrorist recruitment?

Under the programme for the joint management of shared borders, the Republic of the Congo, Angola and the Democratic Republic of the Congo signed in Luanda the Framework Agreement on cooperation for security of 4 December 1999. The purpose of that agreement is to ensure good-neighbourly relations through the elimination of factors likely to be prejudicial to the territorial integrity and sovereignty of each State party. Consequently, the shared frontiers between these States are a source of collective peace. The recruitment of terrorists at these frontiers is therefore prohibited.

III.2 What legal controls exist governing the acquisition, ownership, carrying, use, import and export of firearms and other weapons?

Unlike certain countries in the world where the legal regime governing weapons is liberalized, the acquisition, ownership, carriage, use, import and export of weapons is strictly prohibited by law in the Congo (see the initial report, page 6 of the English text, fifth paragraph). However, a permit is required for the keeping of hunting rifles (big game, small game and hunting for sport). As can be seen, the problem of weapons is the province of the State and not of individuals.

IV. Paragraph 2 (c)

What provisions exist to exclude from the Republic of the Congo persons, whether asylum-seekers or not, who are persons mentioned in paragraph 2 (c) of the resolution?

The Constitution of the Republic of the Congo of 20 January 2002, article 15, recognizes the right of asylum of foreign nationals, but that right must be exercised

in accordance with the procedures and conditions specified by law. However, despite the recognition of the right of asylum of aliens, it must be acknowledged that aliens are governed in Congolese territory by Act No. 23-96 of 6 June 1996 which establishes conditions for the entry, stay and exit of aliens in the Republic of the Congo.

Article 42 of that Act provides that, "an alien who has failed, without a valid excuse, to request the issuance of a residence card within the statutory time limits shall be subject to a term of imprisonment of between 15 days and one year or to a fine of between 200,000 and 500,000 CFA francs". Similarly, it is to be noted that the right of asylum is also governed by the provisions of the international conventions in force. If a person, whether or not an asylum-seeker, belongs to the category of persons indicated in paragraph 2 (c), such person becomes ipso facto — a danger to public order and is prosecuted in accordance with the laws and regulations in force in Congolese territory.

V. Paragraph 2 (d)

As indicated in the initial report of the Republic of the Congo (pages 12 and 13 of the English text) the Congo is party to a number of international conventions on terrorism, including:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, of 14 September 1963;
- Convention for the Suppression of Unlawful Seizure of Aircraft, of 16 December 1970;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, of 23 September 1971;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 23 September 1971.

These three international conventions and the supplementary protocol have been ratified by the Republic of the Congo and have been the subject of special national legislation, including the acts listed on page 10 of the initial report of the Republic of the Congo pursuant to resolution 1373 (2001).

With respect to the other international and regional conventions concerning terrorism, it must be noted that, because of the complexity of the legal machinery governing ratification of the international obligations of the State, on the one hand, and enormous economic problems, on the other, those conventions are still in the process of being ratified. With respect to the problems referred to above, those conventions will be the subject of progressive ratification.

As an indication, for the information of the Counter-Terrorism Committee, of the measures taken to apply penalties, as a matter of domestic law, to violations of the international conventions enumerated above, it may be said that the laws adopted in compliance with those conventions are aimed primarily at organizing the monitoring of persons and goods with a view to ensuring the safety of international civil aviation. Consequently, in the event of a violation of international treaty standards, the penalties provided by the laws and regulations in force are applied

pending the preparation of special legislation in the framework of the Standing National Counter-Terrorism Commission.

VI. Paragraph 2 (e)

What is the competence of the courts of the Republic of the Congo to deal with criminal acts committed abroad by a person who is a citizen, and with crimes committed abroad by a foreign national who is ordinarily resident in the Republic of the Congo?

In addition to the provisions of articles 96, 265, 267 and 268 of the Penal Code, crimes committed by Congolese nationals abroad and those committed by foreign nationals ordinarily resident in the Congo are wrongful acts and subject to punishment.

In general, two possibilities can be envisaged:

- Firstly, Congolese courts have jurisdiction to pass judgement on actions committed by nationals or foreigners established in the national territory in accordance with the laws and regulations of the State.

However, a distinction must be made between acts committed abroad by nationals or foreigners residing in the Congo in countries which have agreements of judicial and legal cooperation, and those committed in countries which have no such assistance agreement. Offences and crimes committed by Congolese nationals in countries with which the Congo has judicial and legal relations, such as France, the Democratic Republic of the Congo and Cuba, are dealt with in the framework of letters rogatory. Thus, for example, article 58 of the legal cooperation agreement between the Republic of the Congo and France provides that: "the two States undertake to hand over to each other, in accordance with the rules and under the conditions specified by this agreement, any persons who, being located in the territory of one of those countries, are being prosecuted, or have been convicted, by the judicial authorities of the other country".

- Lastly, in the case of offences committed outside the Congo by a foreigner normally resident in the Congo, it is the principle of the conflict of laws that applies. In other words, if a foreign national residing in the Congo commits an offence in another country, the *lex fori* principle is applied, in other words the governing law is that of the place where the offence was committed. If the accused is in Congolese territory, judicial assistance may be requested from the competent Congolese authorities.

Act No. 24/82 of 7 July 1982 concerning the extradition of foreign nationals provides in article 1: "in the absence of a treaty or convention, the conditions, procedure and effects of extradition shall be determined by the provisions of this Act. This Act shall also apply to matters not regulated by treaties or conventions". We note that crimes and offences committed abroad by foreign nationals resident in the Congo are punishable under the laws of the State.

VII. Paragraph 2 (f)

With respect to judicial cooperation, Congolese legislation can be considered at two levels, domestic and international.

VII.1 Domestic level

At the domestic level, there are texts governing judicial cooperation between the Congolese State and other States. Any person having a legitimate reason may refer to Act No. 001/84 of 20 January 1984 on the reorganization of judicial cooperation and to Decree No. 4330/MJ/CAB of 9 May 1985 which specifies the components of the file in a request for judicial cooperation. These texts guarantee the right to judicial cooperation in the Congo in both civil and criminal cases.

VII.2 Internationally

At this level, judicial cooperation has two aspects, bilateral and multilateral:

- Bilaterally: The Congo has concluded agreements with certain countries with respect to legal and judicial cooperation. This applies to France, the Democratic Republic of the Congo and Cuba. Other agreements of that nature are being negotiated with Angola and the Russian Federation.
- Internationally: This involves the General Convention on Judicial Cooperation, known as the Tananarive Convention, of 12 September 1961 which governs judicial cooperation between the Congo and the other African countries. Similarly, the Congo is a signatory of the Rome Statute of the International Criminal Court but has not yet ratified it. Consequently, its provisions have not yet been incorporated in the domestic legal order. The statute of the International Criminal Court is not binding on the Congo.

VII.3 What is the legal time frame for a request for judicial assistance?

With respect to the legal time frame for a request for judicial assistance, it must be pointed out that judicial assistance requires the filing of an application. Clearly, the outcome of an application for assistance depends on the relevance of the file submitted. In the bilateral context, and for States that have relations of judicial cooperation, the requesting State files an application for judicial assistance through the diplomatic channel to the requested State which takes action thereon. Article 30 of the General Convention on Judicial Cooperation between the Congo and the Democratic Republic of the Congo provides that: "the request for extradition shall be addressed directly to the competent Prosecutor General of the requested State. It shall be accompanied by the original or an authentic copy either of an enforceable sentence, or of an arrest warrant, or of any warrant having the same effects and specifically identifying the judicial authority handing down the sentence, on the one hand, and, on the other, giving the applicable conditions of time, place and a description of the facts. To the extent possible, a description of the individual sought shall also be attached, together with any details to determine his or her identity and nationality".

With respect to the foregoing, it should be recognized that the response to an application for judicial assistance, even in a criminal case, is not mechanical since it depends on fulfilment of the relevant formal and substantive conditions.

VIII. Paragraph 2 (g)

The institutional coordination machinery for the monitoring of drugs, money and security at the frontiers to prevent movements of terrorist groups comprises the following bodies:

- Ministry of the Interior and Police (Frontier Police);
- Ministry of the Economy, Finance and the Budget (Department of Customs);
- Ministry of State, Ministry of Transport and Privatizations, responsible for the coordination of government action (National Civil Aviation Agency), see the initial report of the Congo, pages 9 to 12 of the English text.

In addition, it must be pointed out that this machinery is strengthened by the deployment of mixed patrols as part of the joint management of shared frontiers along the River Congo by the Democratic Republic of the Congo and the Republic of the Congo. Similarly, the measures taken to prevent the counterfeiting and forgery of money, identity papers and travel documents and fraud are as explained in the initial report of the Congo pursuant to Security Council resolution 1373 (2001), on pages 3, 4, 11 and 12 of the English text.

IX. Paragraph 3 (a), (b) and (c)

The institutional mechanism for implementing paragraph 3 (a), (b) and (c) of resolution 1373 (2001) was set out in the initial report of the Congo on page 12 of the English text.

X. Paragraph 3 (c)

What is the legal basis for extradition in the Republic of the Congo?

Extradition in the Republic of the Congo is not a haphazard procedure. It is governed by the existence of judicial cooperation agreements. The judicial cooperation agreements between the Congo, France, the Democratic Republic of the Congo and Cuba, for example, contain clauses covering the reciprocal extradition of persons who have been tried and sentenced in their respective territories. In the case of countries that do not have judicial cooperation agreements, cases are dealt with under the relevant Congolese laws and regulations.

XI. Paragraph 3 (d) and (e)

As indicated in the present report with respect to paragraph 2 (d), the Congolese State is party to certain international conventions but has not yet ratified the majority of them. It must be stated that the 12 conventions relating to terrorism are currently going through the ratification process. Similarly, the drafting of special legislation could be envisaged only following the ratification of all these conventions.

XII. Paragraph 3 (g)

The legal regime governing extradition under Congolese law follows well-defined procedures. In other words, extradition acknowledges a legal basis; consequently refusal of extradition cannot be based on political grounds.

Act No. 25/82 of 7 July 1982 concerning the extradition of foreign nationals provides, in article 1, that: "in the absence of a treaty or convention, the conditions, procedure and effects of extradition shall be determined by the provisions of this Act. This Act shall apply also to matters not regulated by treaties or conventions".

It follows from the foregoing that the extradition of an individual who is assumed to be a terrorist could not be refused on political grounds.

XIII. Paragraph 4

The concerns expressed in paragraph 4 of Security Council resolution 1373 (2001) will be addressed in the context of the Standing National Counter-Terrorism Commission in order to take account of the multidimensional nature of terrorism.

XIV. Other problems

In order to give full effect to Security Council resolution 1373 (2001), the text establishing the Standing National Counter-Terrorism Commission provides for an administrative machinery involving the following institutions:

- Ministry of Foreign Affairs, Cooperation and Francophonie;
- Ministry of Security and Police;
- Ministry of Justice and Human Rights;
- Ministry of the Economy, Finance and the Budget;
- Ministry of State, Ministry of Transport and Privatizations responsible for the coordination of government action;
- Ministry of Territorial Administration and Decentralization.

Lastly, it is to be noted that despite the efforts made by the Republic of the Congo, the Government, because of its enormous problems, needs the assistance of the Counter-Terrorism Committee in order to establish the material and juridical conditions for the prevention and combating of terrorism.

United Nations S/2003/671

Security Council

Distr.: General
25 June 2003

Original: English

Letter dated 17 June 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 21 April 2003 (S/2003/440).

The Counter-Terrorism Committee has received the attached third report from Germany submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

03-41344 (E) 030703

Annex

Letter dated 13 June 2003 from the Permanent Representative of Germany to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

Pursuant to your predecessor's letter dated 4 April 2003, I have the honour to transmit herewith the second supplementary report of the Government of the Federal Republic of Germany to the Counter-Terrorism Committee, prepared in compliance with paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

Germany stands ready to provide the Committee with further information, as required.

Enclosure

Second supplementary report to the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On 27 December 2001 Germany submitted a report to the Counter-Terrorism Committee (CTC) prepared in compliance with paragraph 6 of Security Council Resolution 1373 (2001). On 22 October 2002 Germany submitted a supplementary report to the CTC responding to a number of preliminary comments/questions contained in a letter from the CTC dated 15 July 2002. In a letter dated 4 April 2003 the CTC put forward a number of further questions and comments regarding implementation of the Resolution for the consideration of the German Government. This second supplementary report provides answers to those questions and comments.

1. *The CTC notes from the supplementary report that all banks in Germany have to be licensed and supervised by the Federal Financial Supervisory Authority. Does Germany have any provision for regulating alternative money remittance agencies? Please outline such provisions.*

Under the Banking Act (Kreditwesengesetz, KWG) not only banks but also all providers of money transfer services in Germany are supervised by the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BaFin). No. 6 of the second sentence of Section 1 (1a) of the Act defines the execution of payment orders as a financial service for which pursuant to Section 32 (1) a written licence from the Authority is required. It is a criminal offence to provide such services without the required licence (Section 54 (1)2). If financial services are provided without the required licence, the Authority may take administrative action under Section 37 to prevent the continuation of the business.

2. *The CTC would appreciate receiving:*

   - *a report on the progress made with the drafting and enactment of the proposed amendments of the Prevention of Terrorism Act that are intended to implement sub-paragraphs 2 (f) and (g) of the Resolution; and*
   - *a detailed outline of the relevant provisions once they are available for public disclosure.*

Immediately following terrorist attacks in the United States on 11 September 2001, the Federal Government enacted a number of operational emergency measures allowing it to react flexibly to the changed security situation.

The first anti-terror package of legislation was aimed at extending its powers to ban extremist religious organizations and ideological associations under the Act Governing Private Associations — discontinuing what is known as the religious privilege in that Act (effective as of 8 December 2001). According to the new law, religious or ideological associations may be banned if their aims or activities are directed at violating the law, or when they are directed against the order enshrined in the constitution or against the ideal of international understanding. Discontinuing the religious privilege in no way implies an anti-religious or anti-Islamic stance. Religious or ideological organizations that practise their beliefs in conformity with the German legal order are not subject to a ban. In addition, the new Ordinance on the Reliability of Staff Employed at Airports contains regulations on an obligatory procedure for carrying out background security checks, particularly on personnel who work in restricted areas of airports. The Ordinance makes annual security checks obligatory for airport and airline employees, in particular those whose jobs require them to have access to security-relevant airport areas. The Ordinance requires, among other things, the extensive participation of security authorities and regular queries to the Federal Central Criminal Register, and defines the criteria for background security checks.

A further step in this direction was taken on 1 January 2002 when the Counter-Terrorism Act came into effect. This Act expands the powers of the security authorities, among other things by giving the Federal Criminal Police

Office the power to initiate investigations in serious cases of data sabotage. The Federal Office for the Protection of the Constitution was granted powers to gather information from credit and financial institutions in order to investigate capital flows and to gather information from aviation, postal services, and telecommunications companies. The power to gather banking and telecommunications information was also given to the Federal Intelligence Service.

In addition, the Counter-Terrorism Act also contains stricter measures with regard to legislation on foreigners, including, among other things, the denial of visas or residence permits in case of a threat to security or to the liberal and democratic order, as well as the regular expulsion of foreigners involved in terrorist networks.

Significant changes to the law on the Central Aliens Register have resulted in improved access to information in that register. The visa database, which in principle currently contains only information regarding visa applications, will be expanded to contain records on visa decisions in order to improve checks of entry traffic. Police authorities will have improved access in case of non-specific threats, such as in the context of routine identity checks, so that they can immediately determine whether a foreigner is living in Germany legally. The possibility of accessing information on groups will be extended to persons with a consolidated residence status and will be permitted also in cases of non-specific threats. In order to increase the effectiveness of their efforts, the security services will be able to call up the entire database automatically. These changes to the Central Aliens Register come into effect on 1 July 2003.

Furthermore, the Counter-Terrorism Act extends the grounds for banning associations under the Act Governing Private Associations, making it possible to take action against foreigners' associations that support violent or terrorist organisations abroad, contribute to the creation of parallel societies or hinder peaceful coexistence in Germany. The legislation governing passports and identity cards has been amended to improve the computer-aided identification of individuals based on identity papers and to prevent persons from using the identity papers of someone of a similar appearance. In addition to a photograph and signature, another biometric feature may be incorporated into passports and identity cards — also in encrypted form; details will have to be specified in a special federal law. This will make it possible to determine whether the identity of the person in question matches up with the original data stored in the document.

Section 129b of the Penal Code (StGB), effective as of 30 August 2002, extends the criminal offence of forming terrorist organizations (Section 129a StGB) to organizations based outside the country; the previous law required the existence of an independent branch organization within Germany for prosecution. Extending the criminal offence to include the founding, membership and support of a terrorist organization has created a tool geared to actual needs and to deal with the new kind of threat posed by international terrorism as demonstrated by the attacks in the US and Tunisia.

Cf. also the answer to Question 5 on legislation relating to the implementation of the eight FATF Special Recommendations on Terrorist Financing.

3. *What penalties are imposed under German law when funds or other economic resources collected for religious, cultural, or charitable purposes are diverted to purposes other than their stated purposes, in particular the financing of terrorism.*

Diverting funds to a purpose other than the purpose stated when such funds were collected may be punishable as fraud or breach of fiduciary duty under Section 263 or Section 266 of the German Penal Code.

Under Section 263 (1) of the German Penal Code, whoever through misrepresentation, distortion or concealment of facts, produces or maintains a mistaken belief causing another to suffer financial loss commits a criminal offence and shall, if he or she acted with the intent of acquiring an unlawful economic advantage for himself or herself or a third person, be punished by up to five years' imprisonment or by fine. In especially serious cases a sentence of imprisonment from six months to ten years shall be imposed (paragraph 3).

Under Section 266 (1) of the German Penal Code, whoever abuses a power accorded him or her by statute, commission of a public authority or legal transaction to dispose of another's property or to legally obligate another, or whoever violates a duty incumbent upon him or her by reason of statute, commission of a public authority, legal transaction or by a fiduciary relationship to protect another's property and thereby causes damage to the property interests he or she was legally obligated to protect, commits a criminal offence. Offenders may be sentenced to up to five years' imprisonment or fined. In especially serious cases a sentence of imprisonment from six months to ten years shall be imposed (paragraph 2 in conjunction with Section 263 (3)).

Diverting funds or economic resources may also be a criminal offence pursuant to Section 129a (3) or Section 129a (3) in conjunction with Section 129b (1) of the German Penal Code if it is done with the intention of supporting acts of terrorism. The offence is punishable by imprisonment from six months to five years. Section 129a also covers the activities of terrorists or terrorist organizations with links to German territory. Section 129b, which was enacted on 22 August 2002, stipulates that support for terrorist activities may be deemed a criminal offence even if such activities are conducted by an organization abroad. It also provides for extended forfeiture and confiscation of assets (paragraph 2).

4. *The CTC would appreciate receiving information about the application of the legislation criminalizing the financing of terrorism which resulted in the successful prosecution of the offenders.*

To date there have been no successful prosecutions relating to the financing of terrorism. Although there have been a number of investigations, they did not result in criminal proceedings.

5. *The CTC is aware that Germany may have covered some or all of the points in the preceding paragraphs in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Germany's response to these matters as well as details of any efforts to implement international best practice, codes and standards which are relevant to the implementation of Resolution 1373.*

In adopting the Fourth Financial Market Promotion Act (Viertes Finanzmarktförderungsgesetz), which took effect on 1 July 2002, and the Money Laundering Prevention Act (Geldwäschebekämpfungsgesetz), which took effect on 15 August 2002, Germany has fulfilled all its undertakings by June 2002 to enact in national law the 8 Special Recommendations on Terrorist Financing adopted at the FATF special meeting held in Washington in October 2001.

- Under the new Section 24c of the Banking Act (Kreditwesengesetz, KWG), a modern data retrieval system has been introduced that gives the Federal Financial Supervisory Authority (Bundesanstalt für Finanzdienstleistungsaufsicht, BAFin) electronic access to all key account data held by banks.

  Since 1 April 2003 banks have been obliged to hold these data available in a central database (containing the name and account number of the account holder as well as the names of a further person authorized to draw on the account and of an economic beneficiary other than those persons). This enables the Authority to take swift action to counter money laundering, terrorist financing, illicit underground banking and the unlicensed provision of banking and financial services.
  As well as allowing data retrieval for banking supervisory purposes, the new system introduced under Section 24c provides an effective method for immediately freezing the financial assets of specific persons and organizations listed in the annexes of UN Security Council Resolutions and EU Regulations.

- Furthermore, financial market supervisory authorities in third countries, investigating authorities in both Germany and third countries (including all Financial Intelligence Units), the courts and the Federal Ministry of Economics and Labour - the authority responsible for imposing restrictions on capital and payment

transactions under the Foreign Trade and Payments Act — are all entitled to request information on key account data.

The new Section 24c also creates the prerequisites for complying with the Convention concluded in 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union. Under this Convention, all Member States are required to take the necessary measures to provide upon the request of another Member State information on bank accounts held by a person who is the subject of criminal proceedings. To date Germany is the only country to have implemented the Convention in this effective way

The new Section 24c of the Banking Act was enacted by the Fourth Financial Market Promotion Act of 1 July 2002 and came into effect on 1 April 2003. Work is currently under way to install the computerized retrieval system. The Authority will then have access to nearly 400 million data records.

- Another of the amendments to the Banking Act introduced by the Fourth Financial Market Promotion Act o 1 July 2002 was a new Section 25a (4), which implements the core principle No. 15 of the Basel Committe "Customer due diligence for banks" of 4 October 2001 and requires institutions to deploy an internal securit system that applies to all transactions, i.e. not only those which have been identified as suspicious. Sectio 25a of the Banking Act stipulates that customers, accounts and transactions have to be monitored fo irregularities or deviations from a predefined standard pattern of behaviour. If irregularities are detected, th matter is referred to the Compliance Officer for further processing and inspection. It also requires institution to be active in conducting investigations, focusing on the categories of business relations and risk group which experience has shown to be susceptible to abuse for money laundering and financial fraud purposes. T this end they must make use of computer-aided systems which permit account profiling on the basis o parameters appropriate to the specific business structure of the institution in question. Banks must themselve decide on the basis of their own risk structure what business relationships and transactions are to be regarde as conspicuous or unusual and included in the investigation.

- The new Section 25b of the Banking Act was enacted in conjunction with the Money Laundering Preventio Act in order to give effect to FATF Special Recommendation VII and will enter into force on 1 July 2003. I lays down special organizational requirements for handling cashless payments to or from a state outside th European Union.

  Under Section 25b (1) of the Banking Act, the originating credit institution executing cashless payments t states outside the European Union may use only correct and complete data records. The credit institutio must take technical measures to enable it to identify incomplete transaction data. It is obliged pursuant to th third sentence of Section 25b (1) to complete any incomplete data records. In the case of cashless payments t a state outside the EU, intermediary credit institutions will have complied with their obligations pursuant t Section 25b (2) if they check that the mandatory particulars in any data record have been furnished an transmit the record to a further intermediary credit institution (in Germany or another EU country) or to th beneficiary's credit institution (in a third country). In accordance with sentences 2 and 3 of Section 25b (2 they are obliged, however, to take measures enabling them to identify any data records that are incomplete i respect of the required names and account number. Incomplete data records must be completed wher possible before transmission with the help of the credit institution commissioned by the customer, i.e generally by addressing an inquiry to the originating credit institution. The credit institution of th beneficiary will have complied with its obligations pursuant to Section 25b (2) if it has checked that cashles payments originating from states outside the EU contain particulars of the name of the originator and, unles the transaction is a cash remittance, the originator's account number. In accordance with sentences 2 and 3 o Section 25b (2) it is obliged, however, to take measures enabling it to identify any data records that ar incomplete in respect of the required names and account number. Incomplete data records must be complete where possible, i.e. generally by addressing an inquiry to the originating credit institution.

Section 25b (3) imposes similar obligations on financial services institutions that provide money transfer services. Prior to executing a payment order they, too, are required to record the name and address of the customer and, in accordance with the information provided by the customer, the name and the address of the beneficiary of the payment.

- As a further measure to enhance its capacity to implement financial sanctions, Germany intends to introduce other changes to the Banking Act in the planned "Second Law to amend the Customs Administration Act and Other Acts". The relevant legislative procedures have already been set in train (Cabinet decision of 1 April 2003). The new legislation is tentatively scheduled to enter into force in September 2003.

  The planned incorporation into the Banking Act of a new Section 6a is intended to provide a broad legal basis for the introduction of financial sanctions and other administrative measures in relation to banks. Where there are grounds for suspecting that deposits accepted by an institution or other assets entrusted to the institution are being used to finance a terrorist organization or that a financial transaction would, if executed, serve that purpose, the Federal Financial Supervisory Authority is to be empowered:

  1. to issue instructions to the institution's directors;
  2. to prohibit the institution from disposing of an account or deposit held at the institution;
  3. to prohibit the institution from carrying out further financial transactions.

  This is applicable especially to cases where the name of an account holder has been included in the list drawn up by the European Union for the purpose of implementing UN Security Council Resolution 1373 (2001). The proposed new Section 6a of the Banking Act will complement the European Union's competence to order the freezing of the assets of suspected terrorists residing outside the EU.

- Under the amended Money Laundering Act that took effect on 15 August 2002, the Financial Intelligence Unit (FIU) for Germany was established within the Federal Criminal Police Office (Section 5 of the Act). The new Unit's task is above all to build clearing and analysis capacities and organize data sharing with FIUs abroad. To this end banks and financial authorities are now required to submit also to the FIU all reports on suspicious transactions that might involve money laundering and the funding of terrorism. The amended Act also added new professions (in particular estate agents, attorneys, notaries, tax consultants and accountants) to the group of those required to file suspicious transaction reports.

6. *Assistance and guidance*

Germany has already furnished information to the CTC on its programmes of assistance for capacity-building as well as sample legislation and sources of advice for inclusion in the CTC's Directory of Counter-Terrorism Information and Sources of Assistance. Germany has also informed the Committee of assistance already provided for inclusion in the CTC's Matrix of Assistance Requests.

United Nations S/2003/672

Security Council

Distr.: General
25 June 2003

Original: English

Letter dated 25 June 2003 from the Secretary-General addressed to the President of the Security Council

I have the honour to transmit to you the text of the Quartet statement, which was issued following the meeting of the Quartet principals — representing the United States of America, the European Union, the Russian Federation and the United Nations — at the Dead Sea in Jordan on 22 June 2003 (see annex).

I should be grateful if you would bring the present letter and its annex to the attention of the members of the Security Council.

(*Signed*) Kofi A. **Annan**

03-40774 (E) 250603

Annex to the letter dated 25 June 2003 from the Secretary-General addressed to the President of the Security Council

Statement by the Quartet

22 June 2003

Representatives of the Quartet — United Nations Secretary-General Kofi Annan, Russian Foreign Minister Igor Ivanov, Greek Foreign Minister George Papandreou, United States Secretary of State Colin Powell, High Representative for European Common Foreign and Security Policy Javier Solana and European Commissioner for External Affairs Chris Patten — met today at the Dead Sea in Jordan.

The Quartet members reviewed developments since their last meeting, in Washington on 20 December 2002. They welcome the appointment of Palestinian Prime Minister Abbas and the strong start he and his Government have made in difficult circumstances, and the acceptance by Israeli and Palestinian authorities of the road map presented to the parties on 30 April 2003, leading to realization of the goal expressed by President Bush and shared by the Quartet members, of two States — Israel and Palestine — living side by side in peace and security, in 2005. They strongly endorse the results of the Red Sea summit meetings, and pledge to support actively Prime Minister Abbas and Prime Minister Sharon in carrying out the commitments made at these meetings.

They welcome the very positive message and personal commitment of President Bush, and his decision to place a mission on the ground charged with helping the parties to move towards peace, through establishment of a credible and effective structure led by the United States of America, in close cooperation with the Quartet, to coordinate, monitor and promote implementation of the parties' commitments and responsibilities, as laid out in the road map. The Quartet fully shares President Bush's expectation that both parties will meet their obligations in full, and welcomes the initial steps taken by the parties towards this goal.

The Quartet members deplore and condemn the brutal terror attacks against Israeli citizens carried out by Hamas, Palestinian Islamic Jihad and the Al-Aqsa Martyrs Brigade since the road map's presentation. The Quartet calls for an immediate, comprehensive end to all violence and welcomes efforts by the Government of Egypt and others to achieve such an immediate and comprehensive halt to armed action by Palestinian groups. All Palestinian individuals and groups must end acts of terror against all Israelis, anywhere. The Quartet calls on the Palestinian authorities to take all possible steps to halt immediately the activities of individuals and groups planning and conducting attacks on Israelis. The Quartet supports immediate Palestinian action to restructure and consolidate under Prime Minister Abbas all security services, and calls on all States to assist in such efforts.

The Quartet welcomes the discussions between Israel and Palestinian authorities over transfer of security responsibility in Gaza and Bethlehem. They call on both sides to reach agreement as soon as possible on workable arrangements and timetables for implementation.

The Quartet calls on all States in the region and around the world to end immediately any form of support, including fund-raising and financial assistance, to

groups and individuals that use terror and violence to diminish the chances for peace, and calls for an end to all forms of incitement to violence and hatred. The Quartet expresses its deep concern over Israeli military actions that result in the killing of innocent Palestinian and other civilians. Such actions do not enhance security and undermine trust and prospects for cooperation. While the Quartet recognizes Israel's right to self-defence in the face of terrorist attacks against its citizens, it calls on the Government of Israel to respect international humanitarian law and to exert maximum efforts to avoid such civilian causalities.

The Quartet also calls on the Government of Israel to make all possible efforts to support Palestinian authorities and ease the plight of the Palestinian people through immediate actions. The Quartet strongly urges Israel to facilitate movement of people and goods, as well as access by international humanitarian organizations. These steps must be taken as rapidly and comprehensively as possible to improve the humanitarian situation and normalize the daily life of the Palestinian people. The Quartet recalls its position that settlements activity must stop. In this context, it welcomes the undertaking made by Prime Minister Sharon at Aqaba, and first steps taken by Israel on the ground, to remove unauthorized outposts. The Quartet members reviewed progress made on Palestinian institutional reform, endorsed the result of the meetings of the Task Force and Ad Hoc Liaison Committee held earlier in the year, and reaffirmed their support for all efforts to fulfil the reform goals set forth in the first phase of the road map — including adoption of a Palestinian Constitution and preparations for free, open and fair Palestinian elections as soon as possible.

The Quartet reaffirms its commitment to a just, comprehensive and lasting settlement of the Arab-Israeli conflict, including progress towards peace between Israel and Syria and Israel and Lebanon. Such a peace would be based on the foundations of the Madrid Conference, the principle of land for peace, United Nations Security Council resolutions 242 (1967), 338 (1973) and 1397 (2002), agreements previously reached by the parties and the initiative of Saudi Crown Prince Abdullah — endorsed by the Beirut Arab League Summit — calling for acceptance of Israel as a neighbour living in peace and security, in the context of a comprehensive settlement.

The Quartet looks forward to continuing to work together in close consultation on these issues with the parties.

United Nations S/2003/673

Security Council

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26 June 2003

Original: English

Letter dated 26 June 2003 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations addressed to the President of the Security Council

I have the honour to transmit to you herewith a letter dated 26 June 2003 addressed to you from His Excellency Mr. Paek Nam Sun, Minister for Foreign Affairs of the Democratic People's Republic of Korea.

I should be grateful if you could have the text of the present letter circulated as a document of the Security Council.

(*Signed*) **Pak** Gil Yon
Ambassador
Permanent Representative

03-40953 (E) 270603

Annex

Annex to the letter dated 26 June 2003 from the Permanent Representative of the Democratic People's Republic of Korea to the United Nations addressed to the President of the Security Council

(Translation)

Pyongyang, 26 June Juche 92 (2003)

I would like to express hereby the viewpoint of the Government of the Democratic People's Republic of Korea (DPRK) with regard to the fact that one permanent member of the United Nations Security Council has started a diplomatic negotiation to bring before the Security Council the nuclear issue on the Korean peninsula.

The United Nations Security Council assumes an important responsibility of safeguarding international peace and security in accordance with the Charter of the United Nations. This task requires the greatest impartiality.

In particular, since the nuclear issue on the Korean peninsula is one between a small country and a big country, only a fair approach by the Security Council will contribute to ensuring peace and security on the Korean peninsula and in the rest of the Asia-Pacific region and to restoring the authority of the United Nations.

In this respect, I wish to draw your attention to the following points, to which I hope the Security Council will pay primary attention with regard to the nuclear issue on the Korean peninsula.

First, the Security Council should define its view and express its position on the doctrine of the "axis of evil" and the "pre-emptive strike", as it is now the most fundamental issue that has a great impact on international relations and global peace and security.

Targets of the doctrine of the "axis of evil" and the "pre-emptive strike" insisted on and adopted as a policy by one permanent member of the Security Council are the States Members of the United Nations.

As this policy is put into practice, it gives rise to complicated situations that jeopardize global peace and security.

The nuclear issue on the Korean peninsula and the aggravated tensions of the region surrounding this issue are no exception.

The Security Council should pronounce due judgement on whether the said doctrine and the policy based on it conform to the spirit of the Charter of the United Nations.

Second, it is important that the Security Council have good insight into the essence of the positions in the talks of the parties concerned with the nuclear issue on the Korean peninsula.

In view of the history and complexity of the nuclear issue on the Korean peninsula and from the viewpoint of the responsibility for resolving it and the ability

to resolve it, it is reasonable that the issue should be resolved through an organic combination of all necessary forms of talks.

The Government of the DPRK wishes to have bilateral, tripartite and multilateral or any other form of talks proposed by the concerned parties and other countries concerned in an appropriate order.

Since tripartite talks were held in Beijing in April, it would be productive for DPRK-United States of America bilateral talks to be held next and then tripartite or further expanded talks.

The United States, however, creates a precondition that one form of talks is acceptable but another form of talks is not acceptable.

What we desire most with regard to the nuclear issue is to thoroughly eliminate the threats to the security of the DPRK, which have given rise to the nuclear issue.

The real dire threats come not from the countries surrounding us, but from the United States.

Herein lies the reason why the DPRK attaches priority to the DPRK-United States bilateral talks.

It is my view that the Security Council should, if it wishes to promote a correct resolution of the issue, clearly see what kind of position is really helpful for the resolution of an issue and make a practical contribution to it.

Third, the United Nations Security Council should avoid giving any impression that it might apply double standards.

If the Security Council is truly interested in the extension of the scope of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), it should ask all countries remaining outside the NPT to join it.

As is well known, the DPRK is not the only country remaining outside the NPT. Among non-NPT State parties, Israel has been subject to more suspicion of nuclear development for a much longer period of time than the DPRK.

As for the DPRK's withdrawal from the NPT, it is an exercise of its sovereign rights recognized by the NPT itself and, therefore, does not in any way deserve condemnation.

Any condemnation by the Security Council of the rights exercised under Article 10 of the NPT, which provides for withdrawal, will be tantamount to condemnation by the United Nations of the NPT itself.

There is no reason whatsoever to apply such terminology as "non-implementation of the Safeguards Agreement" of the International Atomic Energy Agency in the case of the DPRK.

According to the DPRK-United States Agreed Framework, we were supposed to fully implement the Safeguards Agreement only after all non-nuclear parts, such as turbines and generators for the light water reactor No. 1, had been delivered.

Unfortunately, however, the agreed time never came, and the DPRK withdrew from the NPT.

If the Security Council resorts to double standards in the interpretation and application of international instruments, any decision or measure it adopts will not be persuasive and will be difficult to accept.

Fourth, the Security Council has moral obligations to judge, in the light of the purposes and principles of the Charter of the United Nations, as to whether or not it would be justifiable for one State Member of the United Nations to stifle another Member State.

At present, the United States pursues a policy of combining both "dialogue and pressure" towards the DPRK.

The United States is seeking to put in place a legal system aimed at checking and controlling, based on its intelligence information, the vessels and aircraft of other countries passing through its territorial waters and airspace. Japan, which is our neighbour, has already taken action to realize it.

After all, we can say that this has originated from the doctrine of the United States, which is the world's largest arms seller, that its intelligence information should serve as a standard to judge the legitimacy and illegitimacy of international trade and as a basis to apply pressure to any State Member of the United Nations.

The war in Iraq constitutes a well-proven example that the intelligence information of the United States may be abused for political purposes in disregard of the principle of impartiality.

If this is allowed with the support or acquiescence of the Security Council, it will result in a negative change in the international order.

It can be said that the United Nations is now at a crossroads and must decide whether it will maintain the international order led by the United Nations or give way to the establishment of dangerous world order led by an individual country.

It is a common view of the international community that the Security Council should under no circumstances be used as a cover-up to justify unilateralism or a policy of pressure pursued by a certain country.

Fifth, we consider that the Security Council should pay due attention, when considering the situation on the Korean peninsula, to the current status of the Korean Armistice Agreement, with which the Security Council has a deep connection.

The United States has recently decided to bring into South Korea modern, sophisticated weapons estimated at 11 billion United States dollars. This is a violation of paragraph 13, article II, of the Armistice Agreement, which bans the introduction of weapons into the Korean peninsula.

The United States has also decided to redeploy its troops in South Korea and is trying to shift the responsibility for control of the demilitarized zone from the United States Army to the South Korean army. This is a violation of paragraph 10, article I, of the Armistice Agreement, which stipulates that the demilitarized zone shall be controlled by the Korean People's Army and the United States Army.

The sea and air blockade pursued by the United States against the DPRK through "inspection of vessels and aircraft" is a violation of paragraph 15, article II,

of the Armistice Agreement, which stipulates "not to engage in blockade of any kind of Korea".

The seriousness of the issue lies in the fact that, if the Armistice Agreement is abrogated by way of such violations as mentioned above, the Korean peninsula will go back to a warring situation.

It will be inevitable to a certain degree that, when confidence is lost in the power of the Armistice Agreement to deter war, the demand for other means of deterrence will rise.

I still wish to think that the Security Council has not yet wandered from its objectivity and impartiality.

In case the nuclear issue on the Korean peninsula is debated in the Security Council, I look forward to the Council's just and reasonable efforts for a peaceful solution of the nuclear issue in keeping with its noble mission and responsibility by taking into due consideration the aforementioned points.

(*Signed*) **Paek** Nam Sun
Minister for Foreign Affairs
Democratic People's Republic of Korea